

EXPLANATION OF PROPOSED  
AMENDMENTS TO THE  
FOREIGN SERVICE ACT OF 1946,  
AS AMENDED

December, 1958

Department of State

-1-

TITLE IV  
CATEGORIES AND SALARIES OF PERSONNEL

FOREIGN SERVICE STAFF OFFICERS AND EMPLOYEES

Existing Legislation

Proposed Legislation

Sec. 415. There shall be twenty-two classes of Foreign Service staff officers and employees, referred to hereafter as staff officers and employees. The per annum rates of salary of staff officers and employees within each class shall be as follows:

Sec. 415. (a) There shall be ten classes of Foreign Service staff officer and employees, referred to hereafter as staff officers and employees. The per annum salaries of staff officers and employees within each class shall be as follows:

Class 1, \$11,770, \$12,120, \$12,480,  
                   \$12,830, \$13,160

Class 2, \$10,920, \$11,205, \$11,485,  
                   \$11,770, \$12,120

Class 3, \$10,030, \$10,320, \$10,600,  
                   \$10,885, \$11,165

Class 4, \$9,095, \$9,380, \$9,665,  
                   \$9,945, \$10,230

Class 5, \$8,395, \$8,610, \$8,815,  
                   \$9,030, \$9,315, \$9,600

Class 6, \$7,690, \$7,905, \$8,120,  
                   \$8,325, \$8,540, \$8,755

Class 7, \$6,990, \$7,200, \$7,415,  
                   \$7,630, \$7,840, \$8,050

Class 8, \$6,285, \$6,495, \$6,710,  
                   \$6,925, \$7,140, \$7,350

Class 9, \$5,585, \$5,795, \$6,005,  
                   \$6,220, \$6,435, \$6,650

Class 1 - \$11,660, \$11,990, \$12,320,  
                   \$12,650, \$12,980, \$13,310,  
                   \$13,640

Class 2 - \$9,900, \$10,175, \$10,450,  
                   \$10,725, \$11,000, \$11,275,  
                   \$11,550

Class 3 - \$8,140, \$8,415, \$8,690,  
                   \$8,965, \$9,240, \$9,515,  
                   \$9,790

Class 4 - \$7,000, \$7,225, \$7,450,  
                   \$7,675, \$7,900, \$8,125,  
                   \$8,350

Class 5 - \$6,150, \$6,350, \$6,550,  
                   \$6,750, \$6,950, \$7,150,  
                   \$7,350

Class 6 - \$5,300, \$5,500, \$5,700,  
                   \$5,900, \$6,100, \$6,300,  
                   \$6,500

<u>Existing Legislation</u>	<u>Proposed Legislation</u>
Class 10, \$5,115, \$5,260, \$5,400, \$5,540, \$5,755, \$5,970, \$6,175	Class 7 - \$4,650, \$4,800, \$4,950, \$5,100, \$5,250, \$5,400 \$5,550
Class 11, \$4,650, \$4,790, \$4,930, \$5,070, \$5,215, \$5,355, \$5,500	Class 8 - \$4,200, \$4,350, \$4,500, \$4,650, \$4,800, \$4,950, \$5,100
Class 12, \$4,180, \$4,320, \$4,460, \$4,605, \$4,745, \$4,890, \$5,025	Class 9 - \$3,750, \$3,900, \$4,050, \$4,200, \$4,350, \$4,500, \$4,650
Class 13, \$3,730, \$3,870, \$4,010, \$4,155, \$4,295, \$4,440, \$4,580	Class 10 - \$3,500, \$3,600, \$3,700, \$3,800, \$3,900, \$4,000, \$4,100
Class 14, \$3,300, \$3,445, \$3,585, \$3,730, \$3,870, \$4,010, \$4,155	
Class 15, \$3,090, \$3,165, \$3,230, \$3,300, \$3,445, \$3,585, \$3,730	
Class 16, \$2,875, \$2,950, \$3,020, \$3,090, \$3,165, \$3,230, \$3,300	
Class 17, \$2,660, \$2,735, \$2,805, \$2,875, \$2,950, \$3,020, \$3,090	

Existing Legislation

Proposed Legislation

Class 18, \$2,455, \$2,520, \$2,590,  
\$2,660, \$2,735, \$2,805,  
\$2,875

Class 19, \$2,240, \$2,310, \$2,380,  
\$2,455, \$2,520, \$2,590,  
\$2,660

Class 20, \$2,025, \$2,095, \$2,165,  
\$2,240, \$2,310, \$2,380,  
\$2,455

Class 21, \$1,810, \$1,880, \$1,955,  
\$2,025, \$2,095, \$2,165,  
\$2,240

Class 22, \$1,600, \$1,670, \$1,745,  
\$1,810, \$1,880, \$1,955,  
\$2,025

No existing legislation.

(b) Notwithstanding the provisions of paragraph (a) of this section, the Secretary may, under such regulations as he may prescribe, fix the salary or compensation at lesser rates of salary than those prescribed by this section for the applicable class of officers or employees who are employed locally abroad and who are not available or are not qualified for transfer to another post or posts.

The principal purpose of this proposal is to improve the Foreign Service staff corps salary schedule. The structure of the Foreign Service officer salary schedule was modified in 1956 to provide basic improvements in accordance with the needs of the Service. At that time, the Personnel Integration Program was under way and it was not possible to clearly determine the future needs of the Foreign Service staff corps. Since that time, a careful study has been made and perhaps the most important need for improvement in the administrative machinery affecting the Foreign Service staff corps is in connection with a revision of the present twenty-two class salary schedule. One of the purposes of the proposed revision is to eliminate the unnecessary and unused classes in the present schedule. Classes 15 through 22 have not been used for some time. Inasmuch as alien employees are used extensively for the performance of routine duties at Foreign Service posts, there are few cases where United States citizen employees are required for the level of duties represented by class 14, there being only two Foreign Service resident employees in this class at the present time. Consequently, a ten-class schedule is proposed which provides a reasonable number of levels in relation to the duties and responsibilities which are carried out by staff corps personnel.

This proposed schedule is specifically designed to provide a more adequate promotion ladder for these employees, including equitable and appropriate salary adjustment when promotions to the next higher class are awarded. As a consequence, a staff employee will usually receive more than, and in any case not less than, the equivalent of a within-class step increase at the time of a class promotion. This proposed ten-class schedule has several other features:

- a. The rates of the top three Foreign Service staff classes are the same as the rates contained in classes 3, 4, and 5, respectively,

of the Foreign Service officer schedule. This provides equitable salary treatment for personnel serving at these officer levels and will facilitate the conversion of staff corps personnel at these levels who may qualify in the future for lateral entry into the Foreign Service officer corps.

- b. It consolidates overlapping classes, eliminates overlapping at the top levels, and improves the step-rate increment plan.
- c. It provides reasonable rates at the entrance level of new class FSS-10 (present class FSS-14), which will make this lowest class usable for some recruitment purposes in the future.
- d. Consolidation and readjustment of class and step-rate relationships, coupled with the necessity of keeping adjustment costs to a minimum, results in six of the present classes being split for conversion purposes, but the conversion to the ten-class schedule results in all staff corps employees, except those in present classes FSS-1 and 2, being adjusted to higher class number designations than they now hold under the present schedule. For example, employees presently at FSS-8 will be converted to new FSS-5 and employees at present FSS-5 will be converted to new FSS-3.

As a consequence of the integration program and the resulting expansion of the Foreign Service officer category, the staff category will become increasingly a specialist-technical-clerical corps. Its importance to the effective functioning of the Foreign Service, nevertheless, is not to be underestimated. Reasonably rewarding career opportunities must be provided to attract and retain competent personnel. For some years to come the Department must continue to retain, make

effective use of, and provide reasonable incentives for those staff officers who, because of age or other equally valid reasons, are unable to qualify for lateral appointment as Foreign Service officers. This group of experienced and dedicated officers will decrease gradually as a result of normal attrition and it can be anticipated that a correspondingly lesser proportion of the staff category will be required in future years in the upper salary brackets of the proposed staff corps salary schedule. On the other hand, it becomes increasingly important that an appropriate career plan be provided for the necessary staff officers and employees who serve as highly skilled specialists and technicians essential to the operations of the Service to encourage them to continue in the Foreign Service on a career basis.

New paragraph (b) of section 415 would authorize the Secretary, by administrative action, to prescribe lesser rates of salary than those stipulated in the FSS statutory salary schedule in the case of United States citizen employees who are employed locally in foreign areas for service at a particular post and who are not available or who are not qualified for transfer to other posts of duty.

From time to time it is in the Department's interest to employ in lieu of a local (alien) employee for a local employee position an American citizen at a Foreign Service post who has resided in the locality for many years, who may be married to an alien and frequently possesses dual citizenship, or who is otherwise not qualified for a regular staff corps appointment. The purpose of this provision, therefore, is to enable the Secretary to equate more nearly the salaries paid to such staff personnel to rates prevailing in the locality.

SALARIES AT WHICH FOREIGN SERVICE STAFF OFFICERS  
AND EMPLOYEES MAY BE APPOINTED

Existing Legislation

Sec. 416. A person appointed as a staff officer or employee shall receive salary at the minimum rate provided for the class to which appointed except as otherwise provided in accordance with the provisions of part E of this title.

ADMINISTRATIVE ESTABLISHMENT OF  
NEW GROUPS OF POSITIONS FOR FOREIGN  
SERVICE STAFF OFFICERS AND EMPLOYEES

Sec. 442. The Secretary may, whenever he deems such action to be in the interests of good administration and warranted by the nature of the duties and responsibilities of any group of positions occupied or to be occupied by staff officers and employees in comparison with other positions in the same class, established by regulation for any such group of positions a minimum

Proposed Legislation

Sec. 416. (a) A person appointed as a staff officer or employee shall receive basic salary at one of the rates of the class to which he is appointed which the Secretary shall, taking into account his qualifications and experience and the needs of the Service, determine to be appropriate for him to receive.

(b) Whenever the Secretary determines that the needs of the Service warrant the appointment of staff officers or employees in a particular occupational group uniformly at a specific step rate above the minimum rate of the applicable class, he may adjust the basic salary of any staff officer or employee in the same class and occupational group who is receiving less than such established uniform step rate.

Existing LegislationProposed Legislation

salary computed at any one of the rates of salary above the minimum for a given class but not in excess of the middle rate provided for that class in section 415. Such groups of positions shall, for the purposes of this Act, be known as subclasses.<sup>7</sup>

Under the existing provisions of section 416, staff officers and employees must be appointed at the minimum salary of the class to which appointment is made (except when subclasses are established by regulations). Many staff personnel enter the Foreign Service by transfer from another Government agency, having already achieved within-grade salary increases in Government service in recognition of continued satisfactory service. The Department has found it necessary to appoint such a person at the minimum salary rate of the applicable class and then adjust his salary pursuant to the Secretary's authority under section 642 to grant in-class promotions to staff officers and employees. It is considered desirable, if not necessary, to provide a direct grant of legislative authority for this purpose.

Aside from the desirability of appointing staff personnel who transfer to the Service from other Government agencies at an appropriate within-class salary rate, the proposed new subsection 416(a) would enable the Secretary to take into account the qualifications and experience of prospective candidates from other recruitment sources in fixing an appropriate entering salary. Thus, a highly experienced secretary who has worked in private employment could be offered a

higher starting salary than an inexperienced business school graduate, neither of whom has had previous Government experience.

The proposed new subsection (b) would enable the Secretary to take into account the needs of the Service in fixing appointment salaries. Thus, in an exceedingly tight labor market, the Secretary could prescribe a within-class salary rate as the minimum rate for a particular type of skill that was in short supply and which required special training, such as Security Engineers (Electronics Engineers). In the event the Secretary should make such a determination, however, serious morale problems would arise were no adjustments made in the salaries of employees in the same class and occupational group whose salaries are less than the rate prescribed for new appointees. New subparagraph (b), therefore, would also authorize the Secretary to make an adjustment of this type under such circumstances. As this new provision would supersede the provisions of section 412, that section should be repealed.

It may be noted that authority already exists to appoint ~~staff~~ Foreign Service officers (section 413) and Foreign Service Reserve officers (section 414) above the minimum rate of the class to which appointment is made. Hence, the proposed revision would bring the staff category into line with these related provisions of the Act.

## PART D - TIME OF RECEIVING SALARY

## CHIEFS OF MISSION

Existing Legislation

Sec. 431. (a) Under such regulations as the Secretary may prescribe, a chief of mission may be entitled to receive salary from the effective date of his appointment to the date marking his return to his place of residence at the conclusion of the period of his official service as chief of mission or the termination of time spent on authorized leave, whichever shall be later,<sup>7</sup> but no chief of mission shall be entitled to receive salary while absent from his post whenever the Secretary shall find that such absence was without authorization or justification. If a chief of mission in one position is appointed as chief of mission in another position, he shall be entitled to receive the salary pertaining to the new position commencing on the effective date of the new appointment.

Proposed Legislation

Sec. 431. (a) Under such regulations as the Secretary may prescribe, a chief of mission may be entitled to receive salary from the effective date of his appointment to the date marking his return to his place of residence at the conclusion of the period of his official service as chief of mission or upon termination of his service in accordance with the provisions of paragraph (b) of this section, but no chief of mission shall be entitled to receive salary while absent from his post whenever the Secretary shall find that such absence was without authorization or justification. If a chief of mission in one position is appointed as chief of mission in another position, he shall be entitled to receive the salary pertaining to the new position commencing on the effective date of the new appointment.

Existing Legislation

(b) The official services of a chief of mission shall not be deemed terminated by the appointment of a successor but shall continue until he has relinquished charge of the mission and has rendered such additional services to the Department as the Secretary may require him to render in the interests of the Government for a period not in excess of thirty days, exclusive of time spent in transit.

Proposed Legislation

(b) The official services of a chief of mission shall not be deemed terminated by the appointment of a successor but shall continue until he has relinquished charge of the mission and for such additional period as may be determined by the Secretary, but in no case shall such additional period exceed fifty days, including time spent in transit. During such period the Secretary may require him to render such services as he may deem necessary in the interests of the Government.

Section 431 has been revised to clarify the provision governing the termination of the services of chiefs of mission. In its present form, this section has been subject to a number of different interpretations and has been difficult to administer equitably. As revised the section clearly establishes the fact that a chief of mission's services shall be terminated upon the date he returns to his place of residence or in no case later than fifty days after relinquishing his duties as chief of mission including time spent in transit. The period of time that a chief of mission may remain on the rolls after relinquishing his duties, up to but not exceeding fifty days, is to be determined by the Secretary. During this period he may be required to render such services as the Secretary may deem necessary in the interests of the Government.

PART E - CLASSIFICATION

CLASSIFICATION OF POSITIONS IN THE FOREIGN SERVICE

AND IN THE DEPARTMENT

Existing Legislation

Sec. 441. Under such regulations as he may prescribe, the Secretary shall classify all positions in the Service, including those positions at foreign posts which may be held by career ministers, and shall allocate all positions occupied or to be occupied by staff officers or employees to classes and subclasses established by sections 415 and 442, respectively, and by alien employees and consular agents to such classes as may be established by regulation.<sup>7</sup>

Proposed Legislation

Sec. 441. (a) Under such regulations as he may prescribe, and in order to facilitate effective management, the Secretary shall classify all positions in the Service at posts abroad, excluding positions to be occupied by chiefs of mission, and in the case of those occupied by Foreign Service officers, Reserve officers, and staff officers and employees, he shall establish such positions in relation to the classes established by sections 412, 414, and 415, respectively. Positions occupied by local employees and consular agents, respectively, shall be allocated to such classes as the Secretary may establish by regulation.

(b) Under such regulations as he may prescribe, the Secretary may.

Existing Legislation

Proposed Legislation

notwithstanding the provisions of the Classification Act of 1949, as amended (5 USC 1071, et. seq.), classify positions in or under the Department which he designates as Foreign Service positions to be occupied by officers and employees of the Service, and establish such positions in relation to the classes established by sections 412, 414, and 415.

Section 441 of the Act relating to the classification of positions has been modified in several respects. In a world-wide service it is essential that, with relatively few exceptions, American citizen personnel, including FSS personnel, be assigned according to the needs of the Service, with due regard to the current availability of personnel, health problems, and many other considerations. It is desirable to provide a uniform basis for classifying positions regardless of the category of American personnel used in staffing positions. The present language of section 441 draws a distinction in this respect between the FSO-FSR categories on the one hand and the FSS category on the other, which has not proved to be meaningful in practice.

The second basic change is to authorize the Secretary to classify positions in the Department in accordance with Foreign Service classification standards, title and class designation, without regard to the Classification Act of 1949, as amended, in those instances where he determines such positions

are of such a character as to justify their designation as Foreign Service positions. Some 1500 positions in the Department have been designated as Foreign Service positions under the Secretary's Integration Program. When a position is filled by a person other than an officer or employee of the Foreign Service, it would continue to be classified in accordance with the provisions of the Classification Act of 1949, as amended, and the classification of the position under the provisions of this section would be inoperative until such position was filled by a Foreign Service officer or employee. Based on experience it might be later determined that some of these positions should no longer be designated as Foreign Service positions. It is also likely that certain additional positions, including a number of new positions, may be designated as Foreign Service positions.

## CLASSIFICATION OF POSITIONS OF ALIEN CLERKS AND EMPLOYEES

Existing Legislation

Sec. 444. (a) Upon the basis of the classification provided for in section 441, the Secretary shall, with the advice of the Board of the Foreign Service, from time to time prepare schedules of salaries for classes of positions of alien clerks and employees of the Service, which classes shall be established by regulation, and shall allocate all such positions to the appropriate classes.

(b) All alien employees in an area of comparatively uniform wage scales and standards of living, occupying positions of equal responsibility, shall receive equal pay except as there may be increases provided for length of service in accordance with uniform procedures.<sup>7</sup>

Section 444 is amended to clarify and simplify provisions for the establishment of schedules of salaries for classes of positions for local (alien) employees of the Service. The existing provisions have not proved feasible

Proposed Legislation

Sec. 444. The Secretary shall, in accordance with such regulations as he may prescribe, establish schedules of salaries for classes of positions of local (alien) employees of the Service; provided that such schedules of salaries for local employees shall be based upon prevailing wage rates and related compensation practices for corresponding types of positions in the locality, as is consistent with the public interest.

in the administration of the local (alien) personnel program. Wage and salary schedules must be based upon local prevailing wage rates and prevailing pay practices for corresponding types of positions in the locality. They are subject to frequent changes owing to fluctuating economic and labor market conditions. Further, the Department's responsibility for the administration of local personnel programs of certain other United States Government agencies operating in foreign areas requires interagency coordinative action which obviates the necessity for or the practicability of Board of the Foreign Service clearance on such matters.

ADMINISTRATIVE ESTABLISHMENT OF HAZARDOUS DUTY PAY  
FOR CERTAIN CATEGORIES OF OFFICERS AND EMPLOYEES

Existing Legislation

No existing legislation.

Proposed Legislation

Sec. 447. The Secretary may, under such regulations as he may prescribe, establish rates of salary differential, not exceeding 15 per centum of basic salary, for officers or employees of the Service while they are assigned for duty as couriers.

New section 447 of the Foreign Service Act would authorize the Secretary to grant employees, while assigned to perform duties of a courier, a salary differential not to exceed 15 per centum of the employee's basic salary.

The principle of hazardous duty pay is recognized both in military and civilian pay systems. Couriers perform not only an arduous task, but a dangerous one. They must travel constantly regardless of flight conditions, by means of a great variety of transportation facilities, many of which do not maintain the same level of safety requirements generally found in United States commercial air lines. Couriers are on duty a minimum of 170 hours a month and are in the air most of the time. This should be compared with the policy of our commercial air lines which limits flight time for flying personnel to a maximum of eight-five hours during any one month, with an average somewhat below that figure. Members of the Department's courier service have sustained serious injury in the line of duty and over the past few years several have given their lives in the service of their country.

A number have been injured severely in flight accidents and at least one was injured as a result of a revolution in one of the countries through which he was travelling. The proposed maximum differential of 15% of basic salary is regarded as an appropriate amount after due consideration of the hazards and hardship factors that are inherent in courier duty. It is the Department's plan to pay the differential to couriers whose assignments involve significant hardship conditions or hazards. Criteria for determining the amount of differential, up to 15% of basic salary, applicable to the various courier assignments, will be developed by the Department.

TITLE V  
APPOINTMENTS AND ASSIGNMENTS

PART B - FOREIGN SERVICE OFFICERS

ADMISSION TO CLASSES 1 TO 7, INCLUSIVE

Existing Legislation

Sec. 517. A person who has not served in class 8 shall not be eligible for appointment as a Foreign Service officer of classes 1 to 7, inclusive, unless he has passed comprehensive mental and physical examinations prescribed by the Board of Examiners for the Foreign Service to determine his fitness and aptitude for the work of the Service; demonstrated his loyalty to the Government of the United States and his attachment to the principles of the Constitution; and rendered at least four years of actual service prior to appointment in a position of responsibility in the service of a Government agency, or agencies, except that, if he has reached the age of thirty-one years, the requirement as to service may be reduced to three years. After

Proposed Legislation

Sec. 517. A person who has not served in class 8 shall not be eligible for appointment as a Foreign Service officer of classes 1 to 7, inclusive, unless he has passed comprehensive mental and physical examinations prescribed by the Board of Examiners for the Foreign Service to determine his fitness and aptitude for the work of the Service; demonstrated his loyalty to the Government of the United States and his attachment to the principles of the Constitution; and rendered at least four years of actual service prior to appointment in a position of responsibility in the service of a Government agency, or agencies, except that, if he has reached the age of thirty-one years, the requirement as to service may be reduced to three years. The

Existing Legislation

the date of enactment of the Foreign Service Act amendments of 1955 and until otherwise provided by Act of Congress, not more than one thousand two hundred and fifty persons who have not served in class 8 may be appointed to classes 1 to 7, inclusive; of such persons, not more than one hundred and seventy-five may be appointed who were not employed on March 1, 1955, in the Department, including its Foreign Service Reserve and Foreign Service Staff personnel, and who have not also served in a position of responsibility in the Department, or the Service, or both, for the required period prior to appointment as a Foreign Service officer. Notwithstanding the above provisions of this section, the limitation on the maximum number of appointments authorized herein shall not be applicable in the case of any person appointed or assigned by the Secretary of State as a Foreign Service Reserve

Proposed Legislation

Secretary shall furnish the President with the names of those persons who shall have passed such examinations and are eligible for appointment as Foreign Service officers of classes 1 to 7, inclusive. The Secretary shall, taking into consideration the age, qualifications, and experience of each candidate for appointment, recommend the class to which he shall be appointed in accordance with the provisions of this section.

Existing Legislation

Proposed Legislation

officer and who thereafter has served in a position of responsibility in such capacity for the required period prior to appointment as a Foreign Service officer.<sup>7</sup> The Secretary shall furnish the President with the names of those persons who shall have passed such examinations and are eligible for appointment as Foreign Service officers of classes 1 to 7, inclusive. The Secretary shall, taking into consideration the age, qualifications, and experience of each candidate for appointment, recommend the class to which he shall be appointed in accordance with the provisions of this section.

The proposed change in section 517 eliminates the temporary provision incorporated in Public Law 22, 84th Congress and further amended by Public Law 828, 84th Congress which establishes, presumably for the duration of the lateral entry program, a limitation on the number of persons who can be integrated into the Foreign Service under the provisions of this section. The integration program has now been completed and a permanent provision for the lateral entry of officers to classes 1 to 7, inclusive, should be restored. Any future use

of this lateral entry provision to meet the needs of the Service would be seriously handicapped by the fact that only officers who had been on the rolls of the Department as of March 1, 1955, or who have served three years after appointment by the Secretary of State to the Foreign Service Reserve corps, would be eligible for appointment. It is hoped, the good judgment and common sense of those responsible for advising the Secretary on continuing lateral entry policies can be relied upon to carry out such policies on a sound basis.

Existing Legislation

REINSTATEMENT AND RECALL OF  
FOREIGN SERVICE OFFICERS

Sec. 520.

(b) Whenever the Secretary shall determine an emergency to exist, the Secretary may recall any retired Foreign Service officer temporarily to active service.

No Existing Legislation.

Proposed Legislation

REAPPOINTMENT, RECALL, OR REEMPLOYMENT  
OF FOREIGN SERVICE OFFICERS

Sec. 520.

(b) The Secretary may recall any retired Foreign Service officer temporarily to active duty in the Service whenever he shall determine such recall is in the public interest.

(c) Notwithstanding the provisions of 5 U.S.C. 62 and 5 U.S.C. 715a, a Foreign Service officer heretofore or hereafter retired under the provisions of section 631 or 632 or a Foreign Service staff officer or employee hereafter retired under the provisions of section 803 shall not, by reason of his retired status, be barred from employment in Federal Government service in any appointive position for which he is qualified. An annuitant so reemployed shall serve at the will of the appointing officer.

Section 520 (b) has been changed to liberalize the conditions under which the Secretary may recall a retired Foreign Service officer for assignment to temporary duty. It is frequently of benefit to the Department to make such

assignments to special study groups, Selection Boards, the Foreign Service Institute, or to work on specific problems in which the retired officer has expert knowledge, yet it cannot be ordinarily maintained that an emergency exists. The proposed change would make such assignments possible without having to predict that they are required by emergency conditions. Normally, the tour of duty of an officer recalled to active service under the provisions of this subsection would be of a limited nature. The salary paid the officer recalled would be set at the discretion of the Secretary. It would normally be that of the class in which the officer was serving at the time of his retirement.

New section 520 (c) provides that a participant in the Foreign Service Retirement and Disability System retired mandatorily for age shall not be barred from reemployment in any Government agency. New section 872 provides that an officer will receive the salary of the position in which he is reemployed plus such part of his annuity as when added to his salary will equal the basic salary he was receiving at time of retirement. Most Foreign Service officers are mandatorily retired at age sixty. Some of these possess the experience, ability, and vigor which would make them useful to other agencies of the Government. This proposed provision would make it possible for these officers to be reemployed when their services are needed.

APPOINTMENTS AND ASSIGNMENTS TO THE RESERVE

Existing Legislation

Sec. 522.

No Existing Legislation.

Proposed Legislation

Sec. 522.

(3) extend the appointment or assignment of any Reserve officers, or continue the services of any such Reserve officer by reappointment without regard to the provisions of section 527 of this Act, for not more than five additional years if the Secretary deems it to be in the public interest to continue such officer in the Service, except that the assignment of any Reserve officer under paragraph (2) above may not be extended under the provisions of this paragraph without the consent of the head of the agency concerned.

The proposed new subsection (3) of section 522 is needed by the Department to provide for the continuation on the rolls of certain Foreign Service Reserve officers whose positions together with certain functions have been transferred from ICA to the regular operations of the Department of State. Many of these officers appointed under the special authority available to ICA, with no limitation on the term of their service as Foreign Service Reserve officers, have now served in excess of five years yet they must be continued in their

same capacities for several more years because of the program responsibilities which have been transferred to the Department. This proposed amendment will give the Secretary authority to extend the appointments of such officers as well as certain other Reserve officers whose services are determined to be essential. Where extensions are made under this provision and the officer's initial appointment was subject to the provisions of subsection (2) of this section, extension of service under the new provision will be made only with the consent of the head of the agency concerned. This provision will also enable the Secretary of State in his discretion to extend the tour of duty of a Reserve officer for an additional period not in excess of five years if such officer is performing work of a character particularly valuable to an agency of the Government other than the Department of State and if the head of that agency should request such an extension.

PART C - FOREIGN SERVICE RESERVE OFFICERS

Existing Legislation

Proposed Legislation

ACTIVE DUTY

Sec. 525. The Secretary shall by regulation define the period during which a Reserve officer shall be considered as being on active duty.<sup>7</sup>

It is proposed to delete from the Act section 525. This section, which requires that the Secretary shall by regulation define the period during which a Reserve officer shall be considered as being on active duty, is not applicable to the Foreign Service Reserve officer corps as it has been administered by the Department. Foreign Service Reserve officers are employed to fill specific positions for which they have unique qualifications. Their appointments are temporary and limited in duration and are subject to termination at the discretion of the Secretary. An inactive Foreign Service officer corps does not exist and Foreign Service Reserve officers are not normally recalled to "active duty". This term, which is significant in the case of military personnel who retain reserve status whether on active or inactive duty, is not applicable to the Foreign Service officer corps.

PART D - FOREIGN SERVICE STAFF OFFICERS AND EMPLOYEES

APPOINTMENTS

Existing Legislation

Sec. 531. [The Secretary shall appoint staff officers and employees under such regulations as he may prescribe and, as soon as practicable, in accordance with the provisions of sections 441, 442, and 443.]

Proposed Legislation

Sec. 531. The Secretary may, under such regulations as he may prescribe, appoint staff officers and employees on the basis of qualifications and experience. The Secretary may make provisions for temporary, limited, and such other type appointments as he may deem necessary. He is authorized to establish appropriate probationary periods during which newly appointed staff officers or employees, other than those appointed for temporary or limited service shall be required to serve. The Secretary may terminate at any time, without regard to the provisions of section 637, or the provisions of any other law, staff officers or employees appointed for temporary or limited service and other staff officers or employees who occupy probationary status.

Revised section 531 is designed to emphasize the principle that staff officers and employees shall be appointed on the basis of qualifications, experience and merit. The reference in the present language to sections 441, 442, and 443 has been eliminated. It is proposed that section 442 be repealed since it is superseded by the proposed amendment to section 416. Reference to sections 441 and 443 is unnecessary, and, in fact, is misleading in the sense that the reference could be interpreted to require appointment to a particular position rather than to a class.

The other purpose of the revised section is to make it clear that in prescribing regulations concerning the appointment of staff personnel the Secretary may provide for appropriate types of appointments in terms of tenure, i.e., temporary, limited, and permanent type appointments and, in addition, to make clear that the Secretary may establish a probationary period of appropriate length and separate a newly appointed staff officer or employee who fails to meet probationary requirements without regard to the normal separation for cause procedures established by the proposed new section 637. In view of the importance of the particular personnel policies based on this section the language of the section is being clarified and made more specific.

ASSIGNMENTS AND TRANSFERS

Existing Legislation

Sec. 532. The Secretary may, in accordance with uniform procedures established in such regulations as he may prescribe, assign a staff officer or employee to a position at any post and transfer such a person from a position in one class to a vacant position within the same class, and from one post to another. Upon demonstration of ability to assume duties of greater responsibility, such person may, as provided in section 641, be promoted to a vacant position in a higher class at the same or at a higher rate of salary and he may be transferred from one post to another in connection with such promotion.<sup>7</sup>

The revision of section 532 has been made for the purpose of simplifying the language of the section to correspond more closely to the comparable provisions for Foreign Service officers and to reflect more clearly the intent of the revised section 441 relating to the classification of positions. The language of section 532 relating to promotion has been deleted, inasmuch as section 641 covers the promotion of staff officers and employees to a higher class.

Proposed Legislation

Sec. 532. Under such regulations as he may prescribe, the Secretary may assign a staff officer or employee to any post or he may assign him to serve in any position in which he is eligible to serve under the terms of this or any other Act. A staff officer or employee may be transferred from one post to another by order of the Secretary as the interests of the Service may require.

PART H - ASSIGNMENT OF FOREIGN SERVICE PERSONNEL

ASSIGNMENTS TO ANY GOVERNMENT AGENCY

Existing Legislation

Sec. 571. (a) Any officer or employee of the Service may, in the discretion of the Secretary, be assigned or detailed for duty in any Government agency, such an assignment or combination of assignments to be for a period of not more than four years, except that under special circumstances the Secretary may extend this four-year period for not more than four additional years.

(b) A Foreign Service officer may be appointed as Director General, notwithstanding the provisions of the last sentence of paragraph (a) of this section, but any such officer may not serve longer than four years in such position or positions and upon the completion of such service may not again be assigned to a position in the Department until the expiration

Proposed Legislation

Sec. 571. (a) Any officer or employee of the Service may, in the discretion of the Secretary, be assigned or detailed for duty in any Government agency, or in any international organization, international commission, or any international body, such an assignment or combination of assignments to be for a period of not more than four years, except that under special circumstances the Secretary may extend this four-year period for not more than four additional years.

Existing Legislation

of a period of time equal to his tour of duty as Director General or until the expiration of two years, whichever is shorter.

(c) If a Foreign Service officer shall be appointed by the President, by and with the advice and consent of the Senate, to a position in the Department, the period of his service in such capacity shall be construed as constituting an assignment for duty in the Department within the meaning of paragraph (a) of this section and such person shall not, by virtue of the acceptance of such an assignment, lose his status as a Foreign Service officer. Service in such a position shall not, however, be subject to the limitations concerning the duration of an assignment or concerning reassignment contained in that paragraph.

Proposed Legislation

(b) If a Foreign Service officer shall be appointed by the President, by and with the advice and consent of the Senate, or by the President alone to a position in any Government agency, any United States delegation or mission to any international organization, international commission, or any international body, the period of his service in such capacity shall be construed as constituting an assignment within the meaning of paragraph (a) of this section and such person shall not, by virtue of the acceptance of such an assignment, lose his status as a Foreign Service officer. Service in such a position shall not, however, be subject to the limitations concerning the duration of an assignment contained in that paragraph.

Existing Legislation

[(d)] If the basic minimum salary of the position to which an officer or employee of the Service is assigned pursuant to the terms of this section is higher than the salary such officer or employee is entitled to receive as an officer or employee of the Service, such officer or employee shall, during the period such difference in salary exists, receive the salary of the position in which he is serving in lieu of his salary as an officer or employee of the Service. Any salary paid under the provisions of this section shall be paid from appropriations made available for the payment of salaries of officers and employees of the Service and shall be the salary on the basis of which computations and payments shall be made in accordance with the provisions of title VIII.

Proposed Legislation

(c) If the basic minimum salary of the position to which an officer or employee of the Service is assigned pursuant to the terms of this section is higher than the salary such officer or employee is entitled to receive as an officer or employee of the Service, such officer or employee shall, during the period such difference in salary exists, receive the salary and allowances of the position in which he is serving in lieu of his salary and allowances as an officer or employee of the Service. Any salary paid under the provisions of this section shall be paid from appropriations made available for the payment of salaries of officers and employees of the Service and shall be the salary on the basis of which computations and payments shall be made in accordance with the provisions of title VIII. No officer or employee of the Service who, subsequent to the effective date of this Act is assigned to, or who after June 30, 1960, occupies a position in

Existing Legislation

[(e)] The salary of an officer or employee assigned pursuant to the terms of this section shall be paid from appropriations made available for the payment of salaries of officers and employees of the Service. Such appropriations may be reimbursed, however, when the Secretary enters into reimbursement agreements [with heads of Government agencies] for all or any part of the salaries of officers or employees assigned to such agencies and payment is received pursuant thereto, or when an officer or employee of the Service is assigned to a position the salary of which is payable from other funds available to the Department.

[ASSIGNMENTS TO INTERNATIONAL ORGANIZATIONS

Sec. 576. The Secretary may, in his discretion, assign or detail an officer or employee of the Service for temporary service to or in cooperation with an

Proposed Legislation

the Department that is designated as a Foreign Service position shall be entitled to receive a salary differential under the provisions of this paragraph.

(d) The salary of an officer or employee assigned pursuant to the terms of this section shall be paid from appropriations made available for the payment of salaries of officers and employees of the Service. Such appropriations may be reimbursed, however, when the Secretary enters into reimbursement agreements for all or any part of the salaries of officers or employees assigned to such agencies and payment is received pursuant thereto, or when an officer or employee of the Service is assigned to a position the salary of which is payable from other funds available to the Department.

Existing Legislation

Proposed Legislation

international organization in which the United States participates under the same conditions as those governing the assignment or detail of officers or employees of the Service to the government of another country in accordance with the provisions of the Act of May 25, 1938, as amended (52 Stat. 442; 53 Stat 652; 5 U.S.C. 118e).<sup>7</sup>

Section 571 (a) has been revised to clearly establish authority for the Secretary to assign or detail, in his discretion, officers or employees of the Service to any official delegation or mission, to any international organization, international commission, or international body as well as to any Government agency.

Paragraph (b) which originally related to authority to appoint a Foreign Service officer as Director General without regard to the limitations of paragraph (a) relating to period of assignment to duty in the Department is no longer needed as amendments to section 571 (a), P.L. 22, 84th Congress, provide authority for the Secretary to extend, under special circumstances, a four-year period of duty for a period of an additional four years. Paragraph (b) is, therefore, being deleted as no longer needed.

Paragraph (c) has been redesignated as paragraph (b) and has been changed to provide authority for the appointment by the President, by and with the advice and consent of the Senate, or by the President alone (e.g. International Boundary Commissions), of a Foreign Service officer to a position in any

Government agency including any United States delegation or mission to international organizations, international commissions, or other international bodies without the requirement that the appointee shall lose his status as a Foreign Service officer. Existing section 571 (b) now provides such authority for appointment of an FSO to a position in the Department but does not provide for his appointment elsewhere in Government. The recent appointment of a Foreign Service officer of career minister rank to head the USIA has emphasized the need for this broader authority.

By changing references to "the Department" to "any Government agency" the subsection is being brought into conformity with section 571 (a) as amended by Public Law 22. The reference to "or concerning reassignment" has been eliminated as no longer necessary.

Paragraph (d) has been designated as paragraph (c). This section of the Act provides that in the event an officer or employee of the Service is assigned or detailed to duty with any Government agency (including the Department of State), he shall receive the difference, if any, between his salary as an officer or employee of the Service and the basic minimum salary of the position to which he is assigned. This provision was included in the Foreign Service Act of 1946 to offset in part the loss of allowances that result when the officer or employee is assigned from a post abroad to a position with a Government agency in the United States. It was designed to recognize the principle of equal pay for equal work from the standpoint that an officer or employee of the Foreign Service when assigned to a position in a Government agency in the United States to work in conjunction with Civil Service officers, would receive at least the minimum rate for the position to which he is assigned as determined by the classified grade of the position under Civil Service classification procedures.

Subsequent to the enactment of the Foreign Service Act of 1946, provision has been made for a home service transfer allowance for Foreign Service personnel incident to an assignment to the United States between foreign post assignments. Moreover, as a consequence of the Secretary's Integration Program, the Foreign Service will be used increasingly to staff Departmental positions. A "Washington" assignment at periodic intervals is, in effect, and increasingly will become, a normal assignment. This change in assignment practices when taken in context with the proposed revision of section 441 permitting the Secretary to classify Departmental positions that are occupied by Foreign Service officers under Foreign Service rather than Civil Service classification standards, suggests that there is no longer justification for this so-called "Washington" salary differential for officers of the Service assigned to positions in the Department. Section 571 (c) will therefore exclude Foreign Service officers so assigned from "Washington" differential provisions. The provisions of this section will not, however, prevent officers or employees of the Service assigned to other Government agencies or to official delegations or missions to international organizations, international commissions, or other international bodies, from receiving a salary differential if the basic salary rate of the position to which they are assigned exceeds the salary appropriate to their personal rank.

Paragraph (e) of this section has been redesignated as paragraph (d). The phrase "with heads of Government agencies" has been deleted because reimbursement agreements may be made with officials other than heads of agencies when officers or employees are assigned to international organizations, international commissions or international bodies.

Since the provisions of section 576 have been superseded by revised section 571, it is proposed that section 576 be deleted.

TITLE VI  
PERSONNEL ADMINISTRATION

IN-CLASS PROMOTIONS OF FOREIGN SERVICE OFFICERS AND RESERVE OFFICERS

Existing Legislation

Sec. 625. Any Foreign Service officer or any Reserve officer, whose services meet the standards required for the efficient conduct of the work of the Foreign Service and who shall have been in a given class for a continuous period of nine months or more, shall, on the first day of each fiscal year, receive an increase in salary to the next higher rate for the class in which he is serving. The Secretary is authorized to grant to a Foreign Service officer or a Reserve officer, in any class, 7 additional increases in salary within the salary range established for the class in which he is serving, based upon especially meritorious service.

Section 625 has been revised in order to reaffirm the Secretary's authority to grant additional in-class increments in recognition of especially meritorious service (in the light of the Fringe Benefits Act). While cash awards provided for by the Fringe Benefits Act may in general serve well in providing rewards for especially meritorious or superior service, they are not as appropriate

Proposed Legislation

Sec. 625. Any Foreign Service officer or any Reserve officer, whose services meet the standards required for the efficient conduct of the work of the Service and who shall have been in a given class for a continuous period of nine months or more, shall, on the first day of each fiscal year, receive an increase in salary to the next higher rate for the class in which he is serving. Without regard to any other law the Secretary is authorized to grant to any such officer additional increases in salary within the salary range established for the class in which he is serving, based upon especially meritorious service.

as in-class increase awards for officers of the Foreign Service. Frequently the needs of the Service require an officer to serve for protracted periods of time in positions classified several levels above their personal rank. In many such cases officers have distinguished themselves in the performance of their duties and it is considered that an in-class promotion is more desirable and acceptable under these circumstances than a cash award would be. Further, there are a number of unusual and difficult foreign languages which owing to their uniqueness are not offered on a formal training basis; however, officers frequently upon their own initiative undertake the study of and become proficient in such languages. It is considered that the award of a meritorious in-class increase for such an accomplishment better serves the interests of the Government because it provides a continuing and more desirable incentive for the undertaking of such voluntary and specialized study by members of the Foreign Service.

PART D - SEPARATION OF FOREIGN SERVICE OFFICERS OFFICERS AND  
EMPLOYEES FROM THE SERVICE

FOREIGN SERVICE OFFICERS WHO ARE CAREER MINISTERS

Existing Legislation

Sec. 631. Any Foreign Service officer who is a career ambassador or a career minister, other than one occupying a position as chief of mission, shall, upon reaching the age of sixty-five, be retired from the Service and receive retirement benefits in accordance with the provisions of section 821, but whenever the Secretary shall determine [an emergency to exist, he may,] in the public interest, extend such an officer's service for a period not to exceed five years.

Proposed Legislation

Sec. 631. Any Foreign Service officer who is a career ambassador or a career minister, other than one occupying a position as chief of mission or any other position to which he has been appointed by the President, by and with the advice and consent of the Senate, shall, upon reaching the age of sixty-five, be retired from the Service and receive retirement benefits in accordance with the provisions of section 821, but whenever the Secretary shall determine it to be in the public interest, he may extend such an officer's service for a period not to exceed five years.

Section 631 changes the conditions under which the Secretary may extend the services of career ambassadors or career ministers beyond mandatory retirement age. It is further changed to provide that a career ambassador or career minister serving in any other position to which he has been appointed by the President, by and with the advice and consent of the Senate, e.g. Deputy Under Secretary,

Assistant Secretary, etc., shall continue to hold such positions until the expiration of his appointment. The Department's experience has proved that it is as essential to avoid interruption to the continuity of the service of Foreign Service officers serving in Presidential appointments as it is to avoid such interruption to the service of chiefs of mission. It is not contemplated that a career ambassador or career minister who is a Presidential appointee serving in a capacity other than chief of mission will have his services extended beyond the time he occupies the specific position in which he is serving when he reaches mandatory retirement age. Normally, the officer would be mandatorily retired at the end of such appointment.

Occasionally because of the specialized nature of the assignments of career ambassadors or career ministers who are not serving as chiefs of mission or in Presidential appointments and because of their unique knowledge or experience, it is in the interest of the Service to have them continue on duty for a limited period after they reach mandatory retirement age. Under present provisions, in order to make such an extension of an officer's service the Secretary must determine "an emergency to exist". This phrase has been found to be subject to different interpretations and to make it difficult for the Department to carry out the intent of this provision when the public interest can best be served by a brief delay in the retirement of certain officers. This provision will be used only in exceptional circumstances when it is clear that the continuation of the services of the officer will be in the public interest.

FOREIGN SERVICE OFFICERS WHO ARE NOT CAREER MINISTERS

Existing Legislation

Sec. 632. Any Foreign Service officer who is not a career ambassador or a career minister shall, upon reaching the age of sixty, be retired from the Service and receive retirement benefits in accordance with the provisions of section 821 but when the Secretary shall determine an emergency to exist, he may, in the public interest, extend such an officer's service for a period not to exceed five years.

Proposed Legislation

Sec. 632. Any Foreign Service officer, other than one occupying a position as chief of mission or any other position to which he has been appointed by the President, by and with the advice and consent of the Senate, who is not a career ambassador or a career minister shall, upon reaching the age of sixty, be retired from the Service and receive retirement benefits in accordance with the provisions of section 821 but whenever the Secretary shall determine it to be in the public interest, he may extend such an officer's service for a period not to exceed five years.

Section 632 is changed for the same reasons given under section 631. Provision would be made for extending briefly beyond mandatory retirement the services of a very limited number of Foreign Service officers below rank of career minister when it is clear that the continuation of the services of an officer would be in the public interest. Under present provisions, in order to make such an extension of an officer's service the Secretary must determine "an emergency to exist". This phrase has been found to be subject to different interpretations and to make it difficult for the Department to carry out the

intent of this provision when the public interest can best be served by a brief delay in the retirement of certain officers. This provision will be used only in exceptional circumstances when it is clear that the continuation of the services of the officer will be in the public interest.

SEPARATION FOR UNSATISFACTORY  
PERFORMANCE OF DUTY

Existing Legislation

Sec. 637. (a) The Secretary may, under such regulations as he may prescribe, separate from the Service any Foreign Service officer above class 8 on account of the unsatisfactory performance of his duties ; but no such officer shall be so separated from the Service until he shall have been granted a hearing by the Board of the Foreign Service and the unsatisfactory performance of his duties shall have been established at such hearing .

SEPARATION FOR CAUSE

Proposed Legislation

Sec. 637. (a) The Secretary may, under such regulations as he may prescribe, separate from the Service any Foreign Service officer, Reserve officer, or staff officer or employee, on account of the unsatisfactory performance of his duties, or for such other cause as will promote the efficiency of the Service, and for reasons given in writing, but no such officer or employee shall be so separated until he shall have been granted a hearing by the Board of the Foreign Service and the unsatisfactory performance of his duties, or other cause for separation, shall have been established at such hearing, or else he shall have waived in writing his right to a hearing. The provisions of this section shall not apply to Foreign Service officers of class 8 or any other officer or employee of the

Existing Legislation

Proposed Legislation

Service who is in a probationary  
status or whose appointment is  
limited or temporary.

PART F - SEPARATION OF STAFF  
OFFICERS AND EMPLOYEES

FOR UNSATISFACTORY PERFORMANCE OF  
DUTY

Sec. 651. The Secretary may, under such regulations as he may prescribe, separate from the Service any staff officer or employee on account of the unsatisfactory performance of his duties, but no such officer or employee shall be so separated from the Service until he shall have been granted a hearing by the Board of the Foreign Service and the unsatisfactory performance of his duties shall have been established at such hearing.

SEPARATION FOR MISCONDUCT OR  
MALFEASANCE

Sec. 638. The Secretary shall separate from the Service any Foreign Service officer or Reserve officer who shall be guilty of misconduct or malfeasance in office, but no such officer

Existing Legislation

Proposed Legislation

shall be so separated from the Service until he shall have been granted a hearing by the Board of the Foreign Service and his misconduct or malfeasance shall have been established at such hearing. Any officer separated from the Service in accordance with the provisions of this section shall not be eligible to receive the benefits provided by title VIII of this Act, but his contributions to the Foreign Service Retirement and Disability Fund shall be returned to him in accordance with the provisions of section 841 (a).<sup>7</sup>

FOR MISCONDUCT OR MALFEASANCE

Sec. 652. The Secretary shall separate from the Service any staff officer or employee who shall be guilty of misconduct or malfeasance in office, but no such officer or employee shall be so separated from the Service until he shall have been granted a hearing by the Board of the Foreign Service and his misconduct

Existing Legislation

or malfeasance shall have been established at such hearing.

Sec. 637. (b) Any Foreign Service officer over forty-five years of age, separated from the Service in accordance with the provisions of paragraph (a) of this section, shall be retired upon an annuity computed in accordance with the provisions of section 821 but not in excess of 25 per centum of his per annum salary at the time of his separation.

(c) Any Foreign Service officer under forty-five years of age, separated from the Service in accordance with the provisions of paragraph (a) of this section, shall at the time of separation receive a payment equal to one year's salary or the refund of the contributions made by him to the Foreign Service Retirement and Disability Fund, whichever shall be greater.

Proposed Legislation

Sec. 637. (b) Any participant in the Foreign Service Retirement and Disability system who is:

(1) over forty-five years of age, separated from the Service for unsatisfactory performance of duty shall be retired upon an annuity computed in accordance with the provisions of section 821 but not in excess of 25 per centum of his per annum salary at the time of his separation;

(2) under forty-five years of age, separated from the Service for unsatisfactory performance of duty shall at the time of separation receive a payment equal to one year's salary or the refund, as provided in section 841 (a), of the contributions made by him to the Foreign Service Retirement and Disability Fund, whichever shall be greater.

Existing Legislation

Proposed Legislation

(c) Any participant in the Foreign Service Retirement and Disability system separated under the provisions of paragraph (a) of this section, for reasons other than unsatisfactory performance of duty, may, in the discretion of the Secretary and on the basis of criteria established in advance by him, be granted the benefits of paragraph (b) of this section depending upon his age. Unless the Secretary determines at the time of separation of a participant under the provisions of paragraph (a) of this section that he shall be granted the benefits of paragraph (b) of this section his contributions to the Foreign Service Retirement and Disability Fund shall be returned to him in accordance with the provisions of section 841 (a).

(d) Any officer or employee of the Service who is not a participant in the Foreign Service Retirement and Disability system shall be entitled only to such benefits as shall accrue to him under the retirement system in which he

Existing Legislation

(d) Any payments made in accordance with the provisions of this section shall be made out of the Foreign Service Retirement and Disability Fund.

Proposed Legislation

(e) Any payments made in accordance with the provisions of paragraphs (b) or (c) of this section shall be made out of the Foreign Service Retirement and Disability Fund.

New section 637 (a) combines into one section the provisions of sections 637 and 651 relative to separation for unsatisfactory performance of duty as well as the provisions of sections 638 and 652 relative to separation for misconduct and malfeasance. In so doing the following substantive changes have been made:

- (1) The Secretary is given the discretion to determine whether an officer or employee should be separated for cause. At present he does not have complete discretion in this matter. Under present provisions it is frequently difficult if not impossible to distinguish between unsatisfactory performance and misconduct. Gravity of a proven case may or may not warrant less stringent forms of discipline than outright dismissals.
- (2) The requirement of a hearing does not apply if the officer or employee waives his right to a hearing.
- (3) It may be noted that the revised section applies equally to all Foreign Service officers, Foreign Service Reserve officers, and Foreign Service staff officers and employees.

Foreign Service officers who are in probationary status and any other officers and employees of the Service whose appointments are temporary or limited are not subject to the provisions of this section as their services may be terminated at any time at the discretion of the Secretary.

Paragraph (b) has been revised to provide retirement benefits specifically for participants in the Foreign Service Retirement and Disability system who are over forty-five years of age at time of separation for unsatisfactory performance of duty. This paragraph further provides that participants in the Foreign Service Retirement and Disability system who are under forty-five years of age at time of separation for unsatisfactory performance of duty shall receive a payment of one year's salary or the refund of contributions made to the Foreign Service Retirement and Disability Fund, whichever is greater.

Paragraph (c) gives the Secretary authority to determine that the benefits of paragraph (b) may apply to officers and employees separated for cause if in his discretion such action is justified in the light of the nature of the charges causing separation.

New paragraph (d) has been added to deny non-participants in the Foreign Service Retirement and Disability system the benefits of "severance pay" in the form of a year's salary in lieu of a refund of retirement deductions as is provided in paragraph (b) for participants. A participant in another retirement system over which the Department will have no control could be entitled to a refund of his contributions to that system or to deferred annuity and thus could receive greater benefits than participants in the Foreign Service Retirement and Disability system who are separated for cause.

Existing paragraph (d) has been renumbered paragraph (e).

TERMINATION OF APPOINTMENT OF FOREIGN SERVICE RESERVE OFFICERS  
AND STAFF OFFICERS AND EMPLOYEES UNDER LIMITED APPOINTMENT

Existing Legislation

No existing legislation.

Proposed Legislation

Sec. 638. Notwithstanding the provisions of this or any other law, the Secretary may, under such regulations as he may prescribe, terminate the services of any Reserve officer or staff officer or employee serving under limited appointment at any time.

The Foreign Service Act of 1946, as amended, does not specifically provide the Secretary with clear-cut authority for the separation, when their services are no longer needed, of Foreign Service Reserve officers, whose appointments, by their designation, are recognized as being temporary or limited in nature. Further, the Foreign Service Act of 1946, as amended, does not provide clear-cut authority for the Secretary to terminate staff officers or employees who are serving under limited appointments. This amendment is designed to provide statutory authority for the termination of such employees at the end of the specified period of employment, upon expiration of the special program for which the employee was appointed, or when the need no longer exists for the employee's services.

This flexibility is needed in order to staff new programs with personnel who are willing to accept such assignments and in order to be able to terminate their services with the minimum of disruption.

PART E - PROMOTION OF FOREIGN SERVICE STAFF OFFICERS AND EMPLOYEES

CLASS PROMOTION OF STAFF PERSONNEL

Existing Legislation

Sec. 641. Any staff officer or employee may, in accordance with uniform procedures established in regulations prescribed by the Secretary, upon demonstration of ability to assume duties of greater responsibility, be promoted to a vacant position in a higher class at the same or at a higher rate of salary.<sup>7</sup>

Proposed Legislation

Sec. 641. All promotions of staff officers and employees to a higher class shall be made at the same or at a higher salary on the basis of performance and merit in accordance with such regulations as the Secretary may prescribe.

Section 641 is amended to emphasize the fact that all promotions of staff officers and employees to a higher class shall be on a competitive basis in relation to performance, qualifications, and merit and to provide language that is more nearly consistent with the intent of section 441 relating to the classification of positions. As indicated in the explanation of the proposed Foreign Service salary schedule under section 415, staff personnel upon promotion to a higher class would receive a tangible increase in salary.

IN-CLASS PROMOTIONS OF STAFF OFFICERS AND EMPLOYEES

Existing Legislation

Sec. 642. In-class promotions of staff officers and employees shall be granted in accordance with regulations prescribed by the Secretary.

No existing legislation.

Proposed Legislation

Sec. 642. (a) Under such regulations as the Secretary may prescribe, any staff officer or employee whose services meet the standards required for the efficient conduct of the work of the Service shall receive an increase in salary at periodic intervals to the next higher salary rate for the class in which he is serving. Without regard to any other law the Secretary is authorized to grant any such officer or employee additional increases in salary within the salary range established for the class in which he is serving, based upon especially meritorious service.

(b) Under such regulations as the Secretary may prescribe, any staff officer or employee who has achieved the maximum salary rate prescribed by section 415 for the class in which he is serving may be granted an additional in-class salary increment from

Existing LegislationProposed Legislation

time to time in recognition of longevity and proficiency in the Service. Each such salary increment shall be equal to the maximum step rate increment of the applicable class and no person shall receive more than four such salary increments while serving in the same class.

Paragraph (a) of section 642 has been revised to clarify the present provisions for periodic in-class promotions for Foreign Service staff personnel. In addition, it provides the Secretary with the same authority to provide for staff personnel in-class increases as a reward for meritorious service as that contained in section 625 relating to such meritorious in-class promotions for Foreign Service officers and Foreign Service Reserve officers.

The principal purpose of new section 642 (b) is to authorize the Secretary to establish a system of longevity pay increases for staff personnel. The principle and the practice of longevity pay is well established in government and in industry. Although the work performed by staff corps personnel is highly essential and important to the effective functioning of the Service, in the majority of the cases the nature of the duties and the qualifications required therefor impose automatic limitations on promotional opportunities in the staff corps. In addition, as a consequence of the Secretary's Integration Program, promotional opportunities in the staff corps cannot be as attractive as formerly; however, most staff personnel performing in Foreign Service officer positions who qualified for

lateral entry were integrated into the Foreign Service officer corps. Longevity pay is not pertinent in the case of Reserve officers whose tenure is limited to a period of five years, and it is not consistent with the promotion and selection-out provisions applicable to Foreign Service officers. In the case of Foreign Service staff corps personnel a longevity pay system will meet a definite need in providing an incentive for qualified and experienced employees to continue in the Service throughout their working careers, thus providing these highly essential skills for the Service with a minimum of turnover and cost.

The proposed revision would authorize the Secretary to grant a longevity salary increment from time to time on the basis of significant longevity landmarks in terms of the total years of United States Government service rendered by an employee, provided his record of performance is sufficiently superior to merit the award of such increment. In other words, it is not intended that longevity increments would be awarded automatically on the basis of satisfactory service, as in the case of the regular within-class increases but rather the purpose of the plan is to recognize longevity in combination with proficiency in order to provide a stimulus for long-service employees who remain in the same class to continue to excel in the performance of their duties as well as to continue in the Service.

It is contemplated that the Secretary will establish by regulation the eligibility periods for longevity increments under this plan. In all probability these eligibility periods would be established as a minimum of ten years of service for the first such increase, fifteen years for the second, twenty years for the third, and twenty-five years for the fourth. Achievement of such longevity increases will have a continuing prestige value as they will signify the years of

service as well as the fact that the employee has continued to perform his duties in a highly satisfactory manner. After experience with this plan it may be determined that different years of service landmarks might be desirable; e.g., twelve years' minimum service in lieu of ten, etc.

Further, provision will be made that employees who have already served fifteen, twenty, or twenty-five years of service at the time they achieve the maximum step rate of a given class will be eligible for consecutive longevity increases on an annual (or possibly biennial) basis until they reach the longevity increase appropriate for or related to the number of years of service they have completed, provided they have continued their proficiency in the performance of their duties. In this way, some employees with many years of service already completed and who have been paid at the maximum step rate of their present class for a year or more would, at the time of the enactment of this provision, become immediately eligible for a longevity increase and might continue to be so eligible for subsequent longevity promotions on an annual (or biennial) basis; e.g., an employee who has been at the maximum step rate of his class for a year and has completed twenty years of Government service could receive three longevities on an annual basis (provided his proficiency in the performance of his duties continues) until he reached the twenty year longevity rate, at which time he would begin a five-year waiting period for the last one.

TITLE VII  
THE FOREIGN SERVICE INSTITUTE

ESTABLISHMENT OF THE INSTITUTE

Existing Legislation

Sec. 701. The Secretary shall, in order to furnish training and instruction to officers and employees of the Service and of the Department and to other officers and employees of the Government for whom training and instruction in the field of foreign relations is necessary, and in order to promote and foster programs of study incidental to such training, establish a Foreign Service Institute, hereinafter called the Institute.

Proposed Legislation

Sec. 701. The Secretary shall, in order to furnish training and instruction to officers and employees of the Service and of the Department and to other officers and employees of the Government for whom training and instruction in the field of foreign relations is necessary, and in order to promote and foster programs of study incidental to such training, establish a Foreign Service Institute, hereinafter called the Institute.

The Secretary may also provide appropriate orientation and language training to dependents of officers and employees of the Government if such officers and employees are assigned to foreign relations activities.

The proposed addition to section 701 will give the Secretary specific authority to provide orientation and language training to dependents of officers and employees of the Government who are to serve in foreign relations activities abroad.

APPOINTMENT, ASSIGNMENT, AND DETAIL TO THE INSTITUTE

Existing Legislation

Sec. 704.

No existing legislation.

Proposed Legislation

Sec. 704.

(e) The Secretary may, under such regulations as he may prescribe, in the absence of suitably qualified United States citizens, employ persons who are not citizens of the United States by appointment to the staff of the Institute either on a full- or part-time basis or by contract for services in the United States or abroad at rates not in excess of those provided by the Classification Act of 1949, as amended (5 U.S.C. 1071).

A new paragraph (e) has been added to section 704. This will provide the Secretary with authority either to employ on the staff of the Institute or to contract for the services of aliens for use in language and area training programs. The primary goal of the language and area programs is to have the student achieve a comprehensive speaking and reading proficiency of a language as well as an area knowledge of a country. Frequently the persons best qualified to provide such instruction are recent emigres who have not had an opportunity to acquire American citizenship. Such persons may teach in universities to which Foreign Service personnel might be assigned, but their employment on the staff of the Institute has not heretofore been authorized. This authority will enable the Department to strengthen its language and area training programs in the Foreign Service Institute.

Both full time and part time language and area instructors and tutors will normally be appointed to the staff of the Institute when they are to be used on continuing programs. Authority to employ by contract is considered essential, however, since in many cases persons used in these programs are available in the United States for only short periods of time. In many instances because of the varying requirements of the Institute short term instructors can adequately fill the needs for specialized language and area training. To avoid excessive turnover in the staff of the Institute, and to meet unforeseen changes or modifications in programs, the flexibility provided by a contract provision will bring about economy in the operation of the Institute's programs.

TITLE VIII  
THE FOREIGN SERVICE RETIREMENT  
AND DISABILITY SYSTEM

PART A - ESTABLISHMENT OF SYSTEM

PARTICIPANTS

Existing Legislation

Sec. 803. (b)

(2) have paid into the Fund a special contribution [equal to 5 per centum of his basic salary for each year of such service with interest thereon to date of payment, compounded annually at 4 per centum.]

No Existing Legislation.

Proposed Legislation

Sec. 803. (b)

(2) have paid into the Fund a special contribution for each year of such service in accordance with the provisions of paragraph (b) of section 852.

(c)(1) In accordance with such regulations as the President may prescribe, any Foreign Service staff officer or employee appointed by the Secretary of State who has completed at least 10 years of continuous service in the Department's Foreign Service, exclusive of military service, shall become a participant in the Foreign Service Retirement and Disability system and shall make a special contribution to the Foreign Service Retirement and Disability Fund in accordance with the provisions of section 852.

Existing Legislation

Proposed Legislation

(2) Any such officer or employee who, under the provisions of paragraph (c) (1) of this section, becomes a participant in the Foreign Service Retirement and Disability system, shall be mandatorily retired for age during the first year after the effective date of this section if he attains age sixty-four or if he is over age sixty-four; during the second year at age sixty-three; during the third year at age sixty-two; during the fourth year at age sixty-one, and thereafter at age sixty.

Section 803 (b) (2) has been revised to conform with revisions made in sections 811 and 852 which increase the rate of compulsory contribution to the Foreign Service Retirement Fund from 5 per cent to 6 1/2 per cent.

New paragraph 803 (c) provides for the participation on a mandatory basis of certain staff officers and employees in the Foreign Service Retirement and Disability system. At the present time staff officers and employees are covered by the Civil Service Retirement system. The 1956 amendments to the Civil Service Retirement Act of 1949 have substantially enhanced the attractiveness of this system. The Foreign Service Retirement system is designed

to give recognition to the need for earlier retirement age for career Foreign Service personnel who spend the majority of their working years outside the United States, withstanding the rigors of moving and adjusting themselves and their families to new working and living situations every few years. At the same time, it is apparent that staff officers and employees who serve for an appreciable period are subject in large measure to the same conditions of service as Foreign Service officers who are participants under the Foreign Service Retirement and Disability system. Under the Secretary's Integration Program approximately 400 staff officers have been unable to qualify for lateral appointment as Foreign Service officers due principally to their inability to meet prescribed age requirements. A recent study of staff personnel in classes FSS-1 through 11, inclusive, indicates that there are about 450 staff officers and employees in those classes who have 10 or more years of creditable service toward retirement.

In certain instances staff officers and employees with relatively long periods of service in the Foreign Service may desire to retire voluntarily with full annuity at the earlier age permitted under the Foreign Service Retirement system. In some cases it would be in the interest of the Service and of individual officers and employees if the Foreign Service mandatory retirement provision for retirement at age 60 were made applicable to staff personnel. The need for stimulating somewhat earlier retirement, which is recognized in the case of Foreign Service officers, is also significant in the case of certain Foreign Service staff officers and employees. The proposed provision not only would facilitate the development of a united Foreign Service, one of the principal objectives of the integration program, but it would also contribute to improved promotional opportunities for younger staff personnel.

The purpose of new paragraph 803 (c) (1), therefore, is to provide that Foreign Service staff officers and employees who have completed 10 years of continuous service in the Foreign Service shall become participants in the Foreign Service Retirement and Disability system. These officers and employees will be required to make the necessary contributions to the Foreign Service Retirement and Disability Fund.

Paragraph (2) provides for the gradual phasing out of officers and employees who are above mandatory retirement age at the time they become participants in the system.

## ANNUITANTS

Existing Legislation

Sec. 804. Annuitants shall be persons who are receiving annuities from the Fund on the effective date of this Act /, persons /who shall become entitled to receive annuities in accordance with the provisions of sections 519, 631, 632, 634, 636, 637, 831, 832, and 833, and all widows /and beneficiaries of participants /who are /entitled to receive annuities in accordance with the /terms of this title./

No Existing Legislation

Proposed Legislation

Sec. 804. (a) Annuitants shall be persons who are receiving annuities from the Fund on the effective date of this Act and all persons, including widows, widowers, dependent widowers, children, and beneficiaries of participants or annuitants who shall become entitled to receive annuities in accordance with the provisions of this Act, as amended, or in accordance with the provisions of section 5 of the Act of May 1, 1956 (70 - Stat. 125).

(b) When used in this title the term --

(1) "Widow" means the surviving wife of a participant who was married to such participant for at least two years immediately preceding his death or is the mother of issue by such marriage.

(2) "Widower" means the surviving husband of a participant who was married to such participant.

Existing Legislation

Proposed Legislation

for at least two years immediately preceding her death or is the father of issue by such marriage.

(3) "Dependent widower" means the surviving husband of a participant who was married to such participant for at least two years immediately preceding her death or is the father of issue by such marriage, and who is incapable of self-support by reason of mental or physical disability, and who received more than one-half of his support from such participant.

(4) "Child" means an unmarried child, including (a) an adopted child, and (b) a step-child or recognized natural child who received more than one-half of his support from the participant, under the age of eighteen years, or such unmarried child regardless of age who because of physical or mental disability incurred before age eighteen is incapable of self-support.

Section 804 has been redesignated as section 804 (a) and changed for purposes of simplification and to provide specifically that surviving children, widowers, and dependent widowers as well as widows may be included as survivor annuitants.

New paragraph 804 (b) defines the terms "widow", "widower", "dependent widower" and "child".

## PART B - COMPULSORY CONTRIBUTIONS

Existing Legislation

Sec. 811. Five per centum of the basic salary received by each participant shall be contributed to the Fund, and the Secretary of the Treasury is directed to cause such deductions to be made and the sums transferred on the books of the Treasury Department to the credit of the Fund for the payment of annuities, cash benefits, refunds, and allowances.

Proposed Legislation

Sec. 811. Six and one-half per centum of the basic salary received by each participant shall be contributed to the Fund, and the Secretary of the Treasury is directed to cause such deductions to be made and the sums transferred on the books of the Treasury Department to the credit of the Fund for the payment of annuities, cash benefits, refunds, and allowances.

The proposed change in this section would increase the rate of contribution to the Foreign Service Retirement and Disability Fund from 5 per centum to 6 1/2 per centum of basic salary. This is a necessary amendment in view of the increased benefits provided by the proposed revisions in title VIII.

PART C - COMPUTATION OF ANNUITIES

Existing Legislation

Sec. 821. (a) The annuity of a participant shall be equal to 2 per centum of his average basic salary for the highest five consecutive years of service, for which full contributions have been made to the Fund, multiplied by the number of years [of service], not exceeding thirty-five [years.] However, the highest five years of service for which full contributions have been made to the Fund shall be used in computing the annuity of any Foreign Service officer who serves as chief of mission and whose continuity of service as such is interrupted prior to retirement by appointment or assignment to any other position determined by the Secretary to be of comparable importance. In determining the aggregate period of service upon which the annuity is to be based, the fractional part of a month, if any, shall not be counted.

Proposed Legislation

Sec. 821. (a) The annuity of a participant shall be equal to 2 per centum of his average basic salary for the highest five consecutive years of service, for which full contributions have been made to the Fund, multiplied by the number of years, not exceeding thirty-five, of service credit obtained in accordance with the provisions of sections 851, 852, and 853. However, the highest five years of service for which full contributions have been made to the Fund shall be used in computing the annuity of any Foreign Service officer who serves as chief of mission and whose continuity of service as such is interrupted prior to retirement by appointment or assignment to any other position determined by the Secretary to be of comparable importance. In determining the aggregate period of service upon which the annuity is to be based, the fractional

Existing Legislation

(b) At the time of his retirement, a participant, if the husband of a wife to whom he has been married for at least three years or who is the mother of issue by such marriage, may elect to receive a reduced annuity for himself and to provide for an annuity payable to his widow, commencing on the date following his death and continuing as long as she may live. The annuity payable to his widow shall in no case exceed 25 per centum of his average basic salary as computed in accordance with subsection (a) of this section, or  $66 \frac{2}{3}$  per centum of his reduced annuity. If the age of the participant is less than the age of the wife or exceeds her age by not more than eight years, the annuity of the participant will be reduced by an amount equal to one-half of the annuity which he elects to have paid to his

Proposed Legislation

part of a month, if any, shall not be counted.

(b) At the time of retirement, any participant may, except as otherwise provided by section 834 (a), elect to receive a reduced annuity and to provide for an annuity payable to his widow or her widower, commencing on the date following such participant's death and terminating upon the death of such surviving widow or widower. The annuity payable to the surviving widow or widower after such participant's death shall be 50 per centum of the amount of the participant's annuity, up to the full amount of his annuity, specified by him as the base for the survivor benefits computed as prescribed in paragraph (a) of this section. The annuity of the participant making such election shall be reduced by  $2 \frac{1}{2}$  per centum of any amount up to \$2,400 he specifies as the base for the survivor benefit plus

Existing Legislation

widow. If the age of the participant exceeds the age of the wife by more than eight years, the annuity of the participant will be reduced by an amount equal to one-half the annuity which he elects to have paid to his widow plus an additional reduction equal to 2 per centum of such widow's annuity for each year, or fraction thereof, that the difference in age exceeds eight. The participant may at his option also elect to have his annuity reduced by an additional 5 per centum of the amount which he elects to have paid to his widow, with a provision that, from and after the death of his wife, if the participant shall survive her, the annuity payable to the participant shall be that amount which would have been payable if no option had been elected.<sup>7</sup>

Proposed Legislation

ten per centum of any amount over \$2,400 up to the full amount of the participant's annuity, so specified.

(c)(1) If an annuitant who made the election provided for in paragraph (b) of this section dies and is survived by a widow or widower and by a

Existing Legislation

Proposed Legislation

child or children, there shall be paid to or on behalf of each child, in addition to the annuity payable to the surviving widow or widower under such election, an annuity equal to the smallest of: (i) 40 per centum of the annuitant's average salary divided by the number of children; (ii) \$600; or (iii) \$1,800 divided between the number of children.

(2) If an annuitant who did not make the election provided for in paragraph (b) dies and is survived by a widow or widower and by a child or children, or if such annuitant is not survived by a widow or widower but by a child or children, each surviving child shall be paid an annuity equal to the smallest of: (i) 50 per centum of the annuitant's average salary divided by the number of children; (ii) \$720; or (iii) \$2,160 divided between the number of children.

(d) If a surviving widow or widower who is receiving an annuity in accordance with the provisions of paragraph

Existing Legislation

Proposed Legislation

(b) of this section dies or the annuity of a child is terminated, the annuity of any other child or children shall be recomputed and paid as though such wife, husband, or child had not survived the participant.

(e) The annuity payable to a child under paragraphs (c) or (d) of this section shall begin on the first day of the next month after the participant dies and such annuity or any right thereto shall be terminated upon death, marriage, or attainment of the age of eighteen years, except that, if a child is incapable of self-support by reason of mental or physical disability, the annuity shall be terminated only when such child dies, marries, or recovers from such disability.

(c) A participant who is not married at the time of his retirement or who is married to a wife who is not entitled to an annuity in accordance with the provisions of paragraph (b) of this

(f) A participant who is not entitled to designate a beneficiary in accordance with the provisions of paragraph (b) of this section may at the time of retirement elect to receive

Existing Legislation

section may elect to receive a reduced annuity for himself and to provide for an additional annuity payable after his death to a beneficiary whose name shall be notified in writing to the Secretary at the time of his retirement and who is acceptable to the Secretary. The annuity payments payable to such beneficiary shall be either equal to the deceased participant's reduced annuity payments or equal to 50 per centum of such reduced annuity payments and upon the death of the surviving beneficiary all payments shall cease and no further annuity payments shall be due or payable. The combined actuarial value of the two annuities on the date of retirement as determined by the Secretary of the Treasury shall be the same as the actuarial value of the annuity provided by paragraph (a) of this section. No such election of a reduced annuity payable to a beneficiary other than a child of the participant shall be valid until

Proposed Legislation

a reduced annuity for himself and to provide for an annuity payable after his or her death to a beneficiary whose name shall be notified in writing to the Secretary. The participant may elect that such beneficiary shall receive annuity payments either equal to 50 per centum of the participant's full annuity or to such lesser base sum as the participant shall designate. The annuity payable to a participant making such election shall be reduced by 10 per centum of an annuity computed as provided in subsection (a) of this section and by 5 per centum of an annuity so computed for each full five years the person designated is younger than the retiring participant, but such total reduction shall not exceed 40 per centum. Upon the death of the surviving beneficiary all payments shall cease and no further annuity payments shall be due or payable. No such election of a reduced

Existing Legislation

the participant shall have satisfactorily passed a physical examination as prescribed by the Secretary. Annuity payments payable in accordance with the provisions of this section to a beneficiary who is a child of a participant shall cease when the beneficiary reaches the age of twenty-one years.<sup>7</sup>

Proposed Legislation

annuity payable to a beneficiary shall be valid until the participant shall have satisfactorily passed a physical examination as prescribed by the Secretary.

Section 821 has been amended to extend to participants in the Foreign Service system many of the survivorship benefits provided at present by other Federal retirement systems.

Paragraph (b) prescribes the formula for computing a joint and survivorship annuity under which the retiring officer elects to receive a reduced annuity and provides upon death an annuity for the widow or widower. In this proposal a formula similar to that provided in the Civil Service Retirement system has been adopted. The proposed legislation eliminates the provision of the existing legislation permitting the participant to accept a further reduction of 5 per cent of the full annuity, with the provision for restoration of the full annuity if the spouse predeceases the participant. Actuaries regard this as a "gambling provision" unrelated to sound actuarial principles. It can well be eliminated if the new formula is adopted, for the retiring participant will not in that event suffer so great a loss in annuity by reason of making provision for his or her spouse.

Paragraph (c) (1) covers the case of an annuitant who elected in favor of a joint and survivorship annuity and is survived by a widow or widower and by a

child or children. In such a case each child would receive in addition to the annuity received by the widow an annuity equal to the smallest of: (1) 40 per cent of the annuitant's average salary divided by the number of children; (2) \$600; or (3) \$1,800 divided between the number of children.

Paragraph (c) (2) provides that if the annuitant did not make the election under paragraph (b), dies and is survived by a widow or widower and a child or children, or is survived only by children, they shall receive a higher annuity than they would under the care of a parent annuitant.

Paragraph (d) provides for an increase in the children's annuities if the surviving widow or widower dies, or another child's annuity terminates.

Paragraph (e) provides limitations on the payment of annuities to children; i.e., termination upon death, marriage, or attainment of age 18 years or continuance until death, marriage, or recovery when a child is incapable of self-support by reason of mental or physical disability.

Paragraph (f) provides for the designation of a beneficiary by a participant who is not married or who is not entitled to designate a beneficiary in accordance with the provisions of paragraph (b).

PART D - BENEFITS ACCRUING

TO CERTAIN PARTICIPANTS

RETIREMENT FOR DISABILITY OR INCAPACITY

-- PHYSICAL EXAMINATION --- RECOVERY

Existing Legislation

Sec. 831. (a) Any participant who [ after serving for a total period of not less than five years, ] becomes totally disabled or incapacitated for useful and efficient service by reason of disease or injury [ incurred in the line of duty but ] not due to vicious habits, intemperance, or willful misconduct on his part, shall, upon his own application or upon order of the Secretary, be retired on an annuity computed as prescribed in section 821. If the disabled or incapacitated participant has [ had ] less than twenty years of service at the time he is retired, his annuity shall be computed on the assumption that he had had twenty years of service [ . ]

Proposed legislation

Sec. 831. (a) Any participant who has five years of service credit toward retirement under the system, excluding military or naval service that is credited in accordance with the provisions of sections 851 or 852 (a) (2), and who becomes totally disabled or incapacitated for useful and efficient service by reason of disease, illness, or injury not due to vicious habits, intemperance, or willful misconduct on his part, shall, upon his own application or upon order of the Secretary, be retired on an annuity computed as prescribed in section 821. If the disabled or incapacitated participant has less than twenty years of service credit toward his retirement under the system at the time he is retired, his annuity shall be computed on the assumption that

Existing Legislation

(b) In each case such disability shall be determined [by the report] of [a] duly qualified [physician] or [surgeon], designated by the Secretary to conduct [the examination]. Unless the disability is permanent, [a] like [examination] shall be made annually until the annuitant has reached the [retirement age as defined in sections 631 and 632, and the payment of the annuity shall cease from the date of a medical examination showing recovery.] Fees for examinations under this provision, together with reasonable traveling and other expenses incurred in order to submit to examination, shall be paid out of the Fund.

Proposed Legislation

he had had twenty years of service, but the additional service credit that may accrue to a participant under this provision shall in no case exceed the difference between his age at the time of retirement and the mandatory retirement age applicable to his class in the Service.

(b) In each case such disability shall be determined by the Secretary upon the basis of the advice of one or more duly qualified physicians or surgeons, designated by the Secretary to conduct examinations. Unless the disability is permanent, like examinations shall be made annually until the annuitant has reached the statutory mandatory retirement age for his class in the Service. If the Secretary determines, on the basis of the advice of one or more duly qualified physicians or surgeons conducting such examinations that an annuitant has recovered to the extent that he can return to active duty, the annuitant shall be

Existing LegislationProposed Legislation

given the opportunity to be reinstated  
or reappointed in the Service. The  
Secretary may reinstate any such recover-  
ed disability annuitant in the class in  
which he was serving at time of retire-  
ment. The Secretary may, taking into  
consideration the age, qualifications,  
and experience of such officer and the  
rank of his contemporaries in the Service,  
recommend that the President, by and with  
the advice and consent of the Senate, ap-  
point him to a class higher than the one  
in which he was serving prior to retire-  
ment. Payment of the annuity shall con-  
tinue until a date six months after the  
date of the examination showing recovery  
or until the date of reinstatement to  
active duty in the Service, whichever  
is earlier. Fees for examinations under  
this provision, together with reasonable  
traveling and other expenses incurred in  
order to submit to examination, shall be  
paid out of the Fund. If the annuitant  
fails to submit to examination as re-  
quired under this section, payment of

Existing Legislation

(c) When the annuity is discontinued under this provision before the annuitant has received a sum equal to the total amount of his contributions, with accrued interest, the difference shall be paid to him or his legal representatives in the order of precedence prescribed in section 841.7

No existing legislation.

Proposed Legislation

the annuity shall be suspended until continuance of the disability is satisfactorily established.

(c) If a recovered disability annuitant, whose annuity is discontinued, is for any reason not reinstated to active duty, or reappointed to a higher class in the Service, he shall be considered to have been separated within the meaning of section 834 as of the date he was retired for disability and he shall, after the discontinuance of the disability annuity, be entitled to the benefits of that section or of section 841 (a) except that he may elect voluntary retirement in accordance with the provisions of section 636 if he can qualify under its provisions.

(d) No participant shall be entitled to receive an annuity under this Act and compensation for injury or disability to himself under the Federal Employees' Compensation Act of September 7, 1916, as amended, covering the same

Existing Legislation

No existing legislation.

Proposed Legislation

period of time. This provision shall not bar the right of any claimant to the greater benefit conferred by either Act for any part of the same period of time. Neither this provision nor any provision of the Act of September 7, 1916, as amended, shall be so construed as to deny the right of any person to receive an annuity under this Act by reason of his own services and to receive concurrently any payment under such Act of September 7, 1916, as amended, by reason of the death of some other persons.

(e) Notwithstanding any provision of law to the contrary, the right of any participant entitled to an annuity under this Act shall not be affected because such participant has received an award of compensation in a lump sum under section 14 of the Act of September 7, 1916, as amended, except that where such annuity is payable on account of the same disability for which compensation under such section has been paid,

Existing Legislation

Proposed Legislation

so much of such compensation as has  
been paid for any period extended beyond  
the date such annuity becomes effective,  
as determined by the Secretary of Labor,  
shall be refunded to the Department of  
Labor, to be paid into the Federal  
Employees' Compensation Fund. Before  
such person shall receive such annuity  
he shall (1) refund to the Department  
of Labor the amount representing such  
computed payments for such extended  
period, or (2) authorize the deduction  
of such amount from the annuity payable  
to him under this Act, which amount  
shall be transmitted to such Department  
for reimbursement to such Fund. Deduc-  
tions from such annuity may be made  
from accrued and accruing payments, or  
may be prorated against and paid from  
accruing payments in such manner as the  
Secretary of Labor shall determine,  
whenever he finds that the financial  
circumstances of the annuitant are such  
as to warrant such deferred refunding.

Amendments to section 831 are proposed in order to remedy certain defects in existing law. The provisions concerning annual examination of disability annuitants are made more strict and a new provision is also made for reinstatement of a disability annuitant who recovers to such an extent that he may return to active duty. Under existing provisions there is no clear authorization for the reinstatement of a recovered disability annuitant.

The provisions relating to physicians and surgeons who make the examinations upon which disability retirement is determined and upon which reemployment or reinstatement may be based have been changed to provide for the designation by the Secretary of one or more physicians or surgeons. Further, the provisions have been changed to authorize the Secretary to make the determination, based on reports of the physicians and surgeons designated by him, that annuitants shall be retired on disability or reinstated or reappointed in the Service. It is contemplated that this will result in the establishment by regulation of a medical board designated by the Secretary to advise him with respect to disability retirement.

The present law provides that any participant who has five years of service credit is eligible for disability retirement. The proposed amendment would exclude from those five years free service credit granted for military service for which no contributions have been made to the Fund.

The existing law provides that a disability annuitant is automatically given a minimum of twenty years of service credit. This provision is amended to limit the amount of extra service credit that can be credited to a disability annuitant to the difference between his age at the time of retirement and the mandatory retirement age applicable to his class in the Service. To credit him with more service credit that he could acquire should he continue in the Service until he reached the retirement age would be unwarranted.

Provisions is also made to prevent duplication of disability benefits by the Foreign Service Retirement and Disability system and the Federal Employees' Compensation Bureau. The last sentence of paragraph (d) is based upon analogous provisions of the Civil Service Retirement Act and has the same intent; to permit a widow to receive an annuity in her own right; that is, based on her own service as an employee of the United States Government, and also to receive any compensation payable by reason of the death of her husband resulting from injury sustained in the performance of his duty as an employee of the United States Government.

DEATH IN SERVICE

Existing Legislation

Sec. 832. In case a participant shall die without having established a valid claim for annuity, the total amount of his contributions with interest thereon at 4 per centum per annum, compounded on June 30 of each year, except as provided in section 881 and as hereinafter provided in this section, shall be paid to his legal representatives in the order of precedence given under section 841 upon the establishment of a valid claim therefor. If the deceased participant rendered at least five years of service, and is survived by a widow to whom he was married for at least three years, or who is the mother of issue by such marriage, such widow shall be paid an annuity equal to the annuity which she would have been entitled to receive if her husband had been retired on the date of his death and had elected to receive a reduced joint and survivorship annuity, computed as prescribed in section

Proposed Legislation

Sec. 832. (a) In case a participant shall die and no valid claim for annuity is payable under the provisions of this Act, his contributions to the Fund, with interest, shall be paid in accordance with the provisions of sections 841 (a) and 881.

(b) If a participant who has at least five years of service credit toward retirement under the system, excluding military or naval service that is credited in accordance with the provisions of sections 851 or 852(a) (2), dies before separation or retirement from the Service and is survived by a widow or a dependent widower, who qualifies for an annuity under the provisions of paragraph (b) of section 821, such widow or dependent widower shall be entitled to an annuity equal to 50 per centum of the annuity computed in accordance with the provisions of paragraph (e) of this section and

Existing Legislation

821, providing the maximum annuity for his widow, unless prior to the date of his death he shall have elected, in lieu of such widow's annuity, and with the approval of the Secretary, to have his deductions returned with interest as provided in the first sentence of this section covering participants dying without having established a valid claim for annuity. If the deceased participant had had less than twenty years of service at the time of his death, the annuity payable to his widow shall be computed on the assumption that he had had twenty years of service.<sup>7</sup>

Proposed Legislation

paragraph (a) of section 821. The annuity of such widow or dependent widower shall commence on the date following death of the participant and shall terminate upon death of the widow or dependent widower, or upon the dependent widower's becoming capable of self-support.

(c) If a participant who has at least five years of service credit toward retirement under the system, excluding military or naval service that is credited in accordance with the provisions of sections 851 or 852 (a) (2) dies before separation or retirement from the Service and is survived by a widow or a dependent widower, who qualifies for an annuity under the provisions of paragraph (b) of section 821, and a child or children, each surviving child shall be entitled to an annuity computed in accordance with the provisions of paragraph (c) (1) of section 821. The child's annuity shall

Existing Legislation

Proposed Legislation

begin and be terminated in accordance with the provisions of paragraph (e) of section 821. Upon the death of the surviving widow or dependent widower or termination of the annuity of a child, the annuity of any other child or children shall be recomputed and paid as though such widow or dependent widower or child had not survived the participant.

(d) If a participant who has at least five years of service credit toward retirement under the system, excluding military or naval service that is credited in accordance with the provisions of sections 851 and 852 (a) (2), dies before separation or retirement from the Service and is not survived by a widow or widower, but by a child or children, each surviving child shall be entitled to an annuity computed in accordance with the provisions of paragraph (c) (2) of section 821. The child's annuity shall begin and terminate in accordance with the provisions

Existing Legislation

Proposed Legislation

of paragraph (e) of section 821.

(e) If, at the time of his or her death, the deceased participant had less than 20 years of service credit toward retirement under the system, the annuities payable in accordance with paragraph (b) of this section shall be computed in accordance with the provisions of section 821 on the assumption he or she had had 20 years of service, but the additional service credit that may accrue to a deceased participant under this provision shall in no case exceed the difference between his or her age on the date of death and the mandatory retirement age applicable to his or her class in the Service. In all cases arising under paragraphs (b), (c), (d) or (e) of this section, it shall be assumed that the deceased participant was qualified for retirement on the date of his death.

This section is changed to take into account the fact that for the first time married females have become participants in the System. A limitation is placed on

the amount of free service credit that can be counted in computing annuities for the same reason as that set forth in section 831. The provision inserted in section 831 forbidding the inclusion of credit for military service in the "five-year period of service" is included in this section also. It should be recalled here that section 821 (b) authorizes a survivorship annuity only for a widow who has been married to a participant two years or is the mother of issue by such marriage. Section 832, by its reference to section 821, makes this limitation equally applicable in the case of a widow's annuity in the event of the death in service of a participant.

DISCONTINUED SERVICE RETIREMENT

Existing Legislation

No existing legislation.

Proposed Legislation

Sec. 834. (a) Any participant who voluntarily separates from the Service after obtaining at least five years of service credit toward retirement under the system, excluding military or naval service that is credited in accordance with the provisions of sections 851 or 852 (a) (2), may, upon separation from the Service or at any time prior to becoming eligible for an annuity, elect to have his contributions to the Fund returned to him in accordance with the provisions of section 841, or to leave his contributions in the Fund and receive an annuity, computed as prescribed in section 821 commencing at the age of sixty years. The provisions of paragraph (f) of section 821 shall not be applicable to such participants.

(b) If a participant who has qualified in accordance with the provisions of paragraph (a) of this section, to receive a deferred annuity commencing

Existing Legislation

Proposed Legislation

at the age of sixty dies before  
reaching the age of sixty his con-  
tributions to the Fund, with interest,  
shall be paid in accordance with the  
provisions of sections 841 and 881.

Section 834 is new in Foreign Service legislation. While participation in the Foreign Service Retirement system was limited to a small Foreign Service officer corps, there was comparatively little need for a provision covering discontinued service, since resignations and separations of officers were relatively infrequent after they had acquired as much as five years of service. Now, however, since the Foreign Service officer corps has been greatly expanded and certain staff personnel have been brought under the Foreign Service Retirement system, we can expect a larger proportionate number of voluntary separations than formerly. It is for this reason that the Department needs legislation covering discontinued service annuities which are similar to those of the Civil Service system.

PART E - DISPOSITION OF CONTRIBUTIONS AND INTEREST  
IN EXCESS OF BENEFITS RECEIVEDExisting Legislation

Sec. 841. (a) Whenever a participant becomes separated from the Service without becoming eligible for an annuity or a deferred annuity in accordance with the provisions of this Act, the total amount of contributions from his salary with interest thereon at 4 per centum per annum, compounded annually up to the date of such separation, except as provided in section 881, shall be returned to him.

(b) In the event that the total contributions of a retired participant, other than voluntary contributions made in accordance with the provisions of section 881, with interest compounded annually at 4 per centum added thereto, exceed the total amount

Proposed Legislation

Sec. 841. (a) Whenever a participant becomes separated from the Service without becoming eligible for an annuity or a deferred annuity in accordance with the provisions of this Act, the total amount of contributions from his salary with interest thereon at 4 per centum per annum, compounded annually at the end of each fiscal year through June 30, 1958; semi-annually as of December 31, 1958; annually thereafter as of December 31, and proportionately for the period served during the year of separation including all contributions made during or for such period, except as provided in section 881, shall be returned to him.

(b) In the event that the total contributions of a retired participant, other than voluntary contributions made in accordance with the provisions of section 881, with interest at 4 per centum per annum compounded annually as is provided in paragraph

Existing Legislation

returned to such participant or to an annuitant claiming through him, in the form of annuities, accumulated at the same rate of interest up to the date the annuity payments cease under the terms of the annuity, the excess of the accumulated contributions over the accumulated annuity payments shall be paid in the following order of precedence, upon the establishment of a valid claim therefor:

(1) To the beneficiary or beneficiaries designated by the retired participant in writing to the Secretary;

(2) If there be no such beneficiary, to the duly appointed executor or administrator of the estate of the retired participant<sup>7</sup>;

(3) If there be no such beneficiary, or executor or administrator,

Proposed Legislation

(a) of this section added thereto, exceed the total amount returned to such participant or to an annuitant claiming through him, in the form of annuities, accumulated at the same rate of interest up to the date the annuity payments cease under the terms of the annuity, the excess of the accumulated contributions over the accumulated annuity payments shall be paid in the following order of precedence, upon the establishment of a valid claim therefor, and such payment shall be a bar to recovery by any other person:

(1) To the beneficiary or beneficiaries designated by the retired participant in writing to the Secretary;

(2) If there be no such beneficiary, to the widow or widower of such participant;

(3) If none of the above, to the child or children of such

Existing Legislation

payment may be made to such person or persons as may appear in the judgment of the Secretary to be legally entitled thereto, and such payment shall be a bar to recovery by any other person.7

(c) No payment shall be made pursuant to paragraph (b) [(3)] of this section until after the expiration of thirty days from the death of the retired participant or his surviving annuitant.

Proposed Legislation

participant and descendants of deceased children by representation;

(4) If none of the above, to the parents of such participant or the survivor of them;

(5) If none of the above, to the duly appointed executor or administrator of the estate of such participant;

(6) If none of the above, to other next of kin of such participant as may be determined by the Secretary in his judgment to be legally entitled thereto.

(c) No payment shall be made pursuant to paragraph (b) (6) of this section until after the expiration of thirty days from the death of the retired participant or his surviving annuitant.

Sections 841 and 881 provide, in addition to other provisions, the basis upon which interest is computed on mandatory contributions that exceed benefits received under the Foreign Service Retirement and Disability system and upon voluntary contributions to the Fund. Because they set the periods upon which interest on these contributions is compounded, they also control the record keeping and reporting on the Foreign Service Retirement and Disability Fund. Paragraphs 841 (a) and (b) have been amended to establish the compounding of interest and the keeping of records on a calendar year basis instead of a fiscal year basis as is now required by existing language. This will simplify the administration of the Foreign Service Retirement and Disability Fund by providing a uniform system of controls and records for all retirement and tax deductions, pay rolls, and for the computation of interest on retirement deductions. At the present time records and reports pertaining to the Civil Service Retirement Fund, the Federal Income Tax, and the FICA tax are all maintained on a calendar year basis. The fact that the Foreign Service Retirement and Disability Fund has had to be maintained on a fiscal year basis has necessitated a separate system of record keeping involving six-months' reports from Foreign Service posts on contributions to the Fund, and a separate system for the compilation of retirement deductions. An amendment to the Civil Service Retirement system, similar to this, was made by Public Law 216, approved March 9, 1945 (79 Stat. 577). This change in the Foreign Service Retirement and Disability system will help reduce the cost of the administration of the system as the number of participants increases with expansion of the Foreign Service.

The proposed additional changes in paragraphs (b) and (c) of this section are for the purpose of bringing the provisions relating to the order of precedence

for the payment, when annuity payments cease, of contributions and interest in excess of benefits received into conformity with standard actuarial practice. This will be an administrative convenience since it will further standardize accounting practices in the Department.

PART F - PERIOD OF SERVICE FOR ANNUITIES

COMPUTATION OF LENGTH OF SERVICE

Existing Legislation

Sec. 851. For the purposes of this title, the period of service of a participant shall be computed from the effective date of appointment as a Foreign Service officer, or, if appointed prior to July 1, 1924, as diplomatic secretary, consul general, consul, vice consul, deputy consul, consular assistant, consular agent, commercial agent, interpreter, or student interpreter, and shall include periods of service at different times as either a diplomatic or consular officer, or while on assignment to the Department, or while on special duty or service in another department or establishment of the Government, or while on any assignment in accordance with the provisions of part H of title V, but all periods of separation from the Service and so much of any leaves of absence as may

Proposed Legislation

Sec. 851. For the purposes of this title, the period of service of a participant shall be computed from the effective date of appointment as a Foreign Service officer, or, if appointed prior to July 1, 1924, as an officer or employee of the Diplomatic or Consular Service of the United States, or who becomes a participant under the provisions of this Act, as amended, but all periods of separation from the Service and so much of any leaves of absence without pay as may exceed six months in the aggregate in any calendar year shall be excluded, except leaves of absence while receiving benefits under the Federal Employees' Compensation Act of September 7, 1916, as amended, and leaves of absences granted participants while performing active and honorable military or naval service

Existing Legislation

exceed six months in the aggregate in any calendar year shall be excluded, except [sick] leaves of absence [for illness or injury incurred in the line of duty, with or without pay,] and leaves of absences granted participants while performing active military or naval service in the Army, Navy, Marine Corps, or Coast Guard of the United States.

Proposed Legislation

in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States.

The language of the former section 851 has been simplified and clarified with respect to periods of service which are creditable toward retirement. In addition, specific provision has been made to give participants full service credit toward retirement while they are on leaves of absence during which they receive benefits from the Bureau of Employees' Compensation. The insertion of the phrase "and honorable" in relation to military and naval service precludes the possibility of a participant receiving credit for military service for which he has received a "dishonorable" discharge.

## PRIOR SERVICE CREDIT

Existing Legislation

Sec. 852. (a) A participant may, subject to the provisions of this section, include in his period of service -

(1) service performed as a civilian officer or employee of the Government prior to becoming a participant; and

(2) active military or naval service in the Army, Navy, Marine Corps, Air Force, or Coast Guard of the United States.

(b) A person may obtain credit for prior service by making a special contribution to the Fund equal to 5 per centum of his annual salary for each year of service for which credit is sought subsequent to July 1, 1924, with interest thereon to date of payment compounded annually at 4 per centum, except that no special contributions shall be required for periods of active military or naval service in the Army,

Proposed Legislation

Sec. 852. (a) A participant may, subject to the provisions of this section, include in his period of service -

(1) service performed as a civilian officer or employee of the Government, including the municipal government of the District of Columbia, prior to becoming a participant; and

(2) active and honorable military or naval service in the Army, Navy, Marine Corps, Air Force, or Coast Guard of the United States.

(b) A person may obtain prior civilian service credit in accordance with the provisions of paragraph (a) (1) of this section by making a special contribution to the Fund equal to 5 per centum of his basic annual salary for each year of service for which credit is sought subsequent to July 1, 1924, and prior to the effective date of this Act, and at 6 1/2 per centum thereafter with interest compounded annually at 4 per centum per

Existing Legislation

Navy, Marine Corps, Air Force, or Coast Guard of the United States prior to becoming a participant.<sup>7</sup> Any such participant may, under such conditions as may be determined in each instance by the Secretary, pay such special contributions in installments during the continuance of his service<sup>7</sup>.

Proposed Legislation

annum to the date of payment. Any such participant may, under such conditions as may be determined in each instance by the Secretary, pay such special contributions in installments.

(c) (1) If an officer or employee under some other government retirement system, becomes a participant in the Foreign Service Retirement and Disability system by direct transfer, such officer or employee's total contributions and deposits, including interest accrued thereon, except voluntary contributions, shall be transferred to the Foreign Service Retirement and Disability Fund effective as of the date such officer or employee becomes a participant in the system. Each such officer or employee shall be deemed to consent to the transfer of such funds and such

Existing Legislation

Proposed Legislation

transfer shall be a complete discharge  
and acquittance of all claims and demands  
against the other government retirement  
fund on account of service rendered  
prior to becoming a participant in  
the Foreign Service Retirement and  
Disability system.

(2) No officer or employee, whose  
contributions are transferred to the  
Foreign Service Retirement and Disability  
Fund in accordance with the provisions of  
paragraph (c) (1) of this section, shall  
be required to make contributions in  
addition to those transferred, for periods  
of service for which full contributions  
were made to the other government  
retirement fund, nor shall any refund  
be made to any such officer or employee  
on account of contributions made during  
any period to the other government  
retirement fund, at a higher rate  
than that fixed by section 811 of this  
Act for contributions to the Foreign  
Service Retirement and Disability system.

Existing Legislation

Proposed Legislation

(3) No officer or employee, whose contributions are transferred to the Foreign Service Retirement and Disability Fund in accordance with the provisions of paragraph (c) (1) of this section, shall receive credit for periods of prior service for which a refund of contributions has been made, or for which no contributions were made to the other government retirement fund. A participant may, however, obtain credit for such prior service by making a special contribution to the Foreign Service Retirement and Disability Fund in accordance with the provisions of paragraph (b) of this section.

No existing legislation.

(d) No participant may obtain prior civilian service credit toward retirement under the Foreign Service Retirement and Disability system for any period of civilian service on the basis of which he is receiving or will in the future be entitled to receive any annuity under

Existing Legislation

[(c) Nothing in this Act shall be construed so as to affect in any manner a participant's right to retired pay, pension, or compensation in addition to the annuities herein provided, but no participant may obtain prior service credit toward an annuity under the Foreign Service Retirement and Disability System for any period of service, whether in a civilian or military capacity, on the basis of which he is receiving or will in the future be entitled to receive any annuity, pension, or other retirement or disability payment or allowance.]

[CREDIT FOR SERVICE WHILE ON MILITARY LEAVE

Sec. 854. Contributions shall not be required covering periods of leave of absence from the Service granted a participant while performing active military or naval service in the Army, Navy, Marine Corps, or Coast Guard of

Proposed Legislation

another retirement system covering civilian personnel of the Government.

(e) A participant may obtain prior military or naval service credit in accordance with the provisions of paragraph (a) (2) of this section by applying for it to the Secretary prior to retirement or separation from the Service, but in the case of a participant who is eligible for and receives retired pay on account of military or naval service, the period of service upon which such retired pay is based shall not be included except that in the case of a participant who is eligible for and receives retired pay on account of a service-connected disability incurred in combat with an enemy of the United States or resulting from an explosion of an instrument of war and incurred in line of duty during an enlistment or employment as provided in Veterans Regulation Numbered 1 (a), part I, paragraph I, or is awarded under

Existing Legislation

the United States.<sup>7</sup>

Proposed Legislation

title III of Public Law 810, 80th Con-  
gress, the period of such military or  
naval service shall be included. No con-  
tributions to the Fund shall be required  
in connection with military or naval  
service credited to a participant in  
accordance with the provisions of para-  
graph (a) (2) of this on.

Section 852 (a) has been changed to include in creditable. civilian  
service, service in the municipal government of the District of Columbia, and to  
provide that creditable military service shall have been honorable service.

Section 852 (b) has been changed to clarify provisions relating to prior  
civilian service and to provide that prior civilian service may be obtained by  
making special contributions to the Fund equal to 5 per centum of basic salary for  
each year of service for which credit is sought prior to the effective date of  
this Act and at 6 1/2 per centum thereafter with interest compounded annually at 4  
per centum per annum to the date of payment.

Section 852 (c) has been revised to provide for an automatic transfer of con-  
tributions to the Foreign Service Retirement and Disability Fund from any other  
government retirement fund to which an employee has made contributions when he  
becomes a participant in the Foreign Service Retirement and Disability system by  
direct transfer. This section also is designed to avoid duplication of coverage  
of a participant by two retirement systems except that it permits such duplication  
when compensation is paid by the Veterans Administration for disability incurred  
in combat or when a participant is entitled to an annuity under the provisions

of title III of P.L. 810, 80th Congress. The changed language of this section by removing the clause "but no participant may obtain prior service credit ... on the basis of which he is receiving or will in the future be entitled to receive an annuity, pension, or other payment or allowance" prevents misinterpretation and the possible denial of full annuity benefits to veterans who have been declared disabled or who may in the future be placed in such classification, or who are awarded such benefits under P.L. 810, 80th Congress.

Existing LegislationPART H - OFFICERS REINSTATED  
IN THE SERVICE

Sec. 871. A Foreign Service officer reinstated<sup>7</sup> in the Service in accordance with the provisions of section 520 (b) shall, while so serving, be entitled in lieu of his retirement allowance to the full pay of the class in which he is temporarily serving. During such service, he shall make contributions to the Fund in accordance with the provisions of section 811. If the annuity he was receiving prior to his reinstatement in the Service was based on less than 35 years of service credit, the amount of his annuity when he reverts to the retired list shall be recomputed on the basis of his total service credit<sup>7</sup>.

This section as amended will continue to make the recomputed annuity of an officer who has been recalled or reinstated in the Service and retired a second time, subject to the limitation on the maximum annuity payable an officer under the provisions of section 821.

Proposed LegislationPART H - ANNUITANTS RECALLED OR  
REINSTATED IN THE SERVICE OR  
REEMPLOYED IN THE GOVERNMENTRECALL

Sec. 871. Any annuitant recalled to active duty in the Service in accordance with the provisions of paragraph (b) of section 520 or paragraph (b) of section 831 shall, while so serving, be entitled in lieu of his retirement allowance to the full pay of the class in which he is serving. During such service, he shall make contributions to the Fund in accordance with the provisions of section 811. The amount of his annuity when he reverts to the retired list shall be recomputed in accordance with the provisions of section 821.

Existing Legislation

No Existing Legislation.

Proposed LegislationREEMPLOYMENT

Sec. 872. (a) Notwithstanding any other provision of law, any officer or employee of the Service, who has retired under this Act, as amended, and is receiving an annuity pursuant thereto, and who is reemployed in the Federal Government Service in any appointive position either on a part-time or full-time basis, shall be entitled to receive the salary of the position in which he is serving plus so much of his annuity payable under this Act, as amended, which when combined with such salary does not exceed during any calendar year the highest basic salary such officer or employee was entitled to receive under sections 412 or 415 of the Act, as amended, on the date of his retirement from the Service. Any such reemployed officer or employee who receives salary during any calendar year in excess of the maximum amount which he may be entitled to receive under this subparagraph shall be entitled to such salary in lieu of benefits hereunder.

Existing LegislationProposed Legislation

(b) When any such retired officer or employee of the Service is reemployed, the employer shall notify the Department of State of such reemployment, together with all pertinent information relating thereto and shall cause to be paid, by transfer or otherwise, to the Department of State funds necessary to cover gross salary, employer contributions, and gross lump sum leave payment relating to the employment of the reemployed officer or employee. The Department of State shall make to and on behalf of the reemployed officer or employee payments to which he is entitled under the provisions of paragraph (a) of this section, and shall make those withholdings and deductions authorized and required by law.

(c) In the event of any overpayment under this section the Secretary of State is authorized to withhold the amount of such overpayment from the salary payable to such reemployed officer or employee or from his annuity.

Under existing legislation an officer or employee of the Service who has retired under the Foreign Service Retirement and Disability system and who is employed in any position in the Federal Government must forfeit his annuity during the time of such employment. An officer or employee reemployed under the Civil Service Retirement Act may be employed in Federal Government service and continue to receive his full annuity plus the difference, if any, between such annuity and the salary of the position to which appointed. Officers and enlisted personnel of the Armed Services are subject to a variety of provisions which permit, depending upon the circumstances, benefits which range from deferral of full annuity and receipt of full salary to the receipt of full annuity plus full salary or the election thereof.

The purpose of the proposed new section 872 is to permit the Federal Government to employ Foreign Service personnel retired under the Foreign Service Retirement and Disability system in appointive positions for which they are suited by reason of experience, background, and ability. These provisions would also apply to retired officers or employees presently employed elsewhere in the Federal service and to separated officers or employees of the Service who, at a later date, become entitled to deferred annuity benefits.

This provision would permit the Government to compete on a more favorable basis with industry and to obtain the services of retired Foreign Service personnel of proven ability whose reemployment would be of benefit to the Government.

The proposed new section 872 provides that officers and employees retired under the Foreign Service Retirement and Disability system reemployed in appointive positions in the Federal Government service on a full-time, part-time or consultant basis will receive full salary of the position to which appointed

and in addition, will receive such portion of their annuities as will make their total pay (i.e., the salary of the position to which appointed plus retirement pay) equal, during any calendar year, to the salary of one of the scheduled rates of compensation contained in sections 412 or 415 of the Act that such officer or employee was receiving at the time of his retirement from the Service. The term "calendar year" as used in this section means a year which begins on January 1 and ends on December 31 of any calendar year.

Salaries paid to Foreign Service personnel while serving as ambassadors, ministers, or while assigned to positions the compensation of which exceeds the regular Foreign Service salary will not be used as the basis for determining such officer or employee's total income under the provisions of this section.

Subparagraph (b) of this section provides that in order that the limitation upon the total income imposed by subparagraph (a) may be controlled, the agency of the Federal Government reemploying the Foreign Service officer or employee shall pay to the Department of State funds necessary to cover gross salary, employer contribution, and gross lump-sum leave payment relating to the employment of such officer or employee. Further, the Department of State is authorized to pay to the officer or employee such salary and annuity as he is entitled to receive under subparagraph (a) and to make withholdings and deductions in his behalf that are authorized and required by law, such as tax and FICA withholdings and deductions for Government insurance, savings bonds, and retirement.

Since it is possible that overpayments under this section may be made, subparagraph (c) authorizes the Secretary to withhold the amount of any such overpayment from salary payments to such officer or employee or from his annuity.

## PART I - VOLUNTARY CONTRIBUTIONS

Existing Legislation

Sec. 881. (a) Any participant may, at his option and under such regulations as may be prescribed by the President, deposit additional sums in multiples of 1 per centum of his basic salary, but not in excess of 10 per centum of such salary, which amounts together with interest at 3 per centum per annum, compounded [on June 30 of each year], shall, at the date of his retirement and at his election, be--

(c) In case a participant shall become separated from the Service for any reason except retirement on an annuity, the amount of any additional deposits with interest at 3 per centum per annum, compounded [annually], made by him under

Proposed Legislation

Sec. 881. (a) Any participant may, at his option and under such regulations as may be prescribed by the President, deposit additional sums in multiples of 1 per centum of his basic salary, but not in excess of 10 per centum of such salary, which amounts together with interest at 3 per centum per annum, compounded annually at the end of each fiscal year through June 30, 1958; semi-annually as of December 31, 1958; annually thereafter as of December 31, and proportionately for the period served during the year of his retirement including all contributions made during or for such period, shall, at the date of his retirement and at his election, be--

(c) In case a participant shall become separated from the Service for any reason except retirement on an annuity, the amount of any additional deposits with interest at 3 per centum per annum, compounded as is provided in paragraph

Existing Legislation

the provisions of this paragraph shall be refunded in the manner provided in section 841 for the return of contributions and interest in the case of death or withdrawal from active service.

Proposed Legislation

(a) of this section, made by him under the provisions of this paragraph shall be refunded in the manner provided in section 841 for the return of contributions and interest in the case of death or withdrawal from active service.

Sections 881 and 841 provide, in addition to other provisions, the basis upon which interest is computed on mandatory contributions that exceed benefits received under the Foreign Service Retirement and Disability system and upon voluntary contributions to the Fund. Because they set the periods upon which interest on these contributions is compounded, they also control the record keeping and reporting on the Foreign Service Retirement and Disability Fund. Paragraphs 881 (a) and (c) have been amended to establish the compounding of interest and the keeping of records on a calendar year basis instead of a fiscal year basis as is now required by existing language. This will simplify the administration of the Foreign Service Retirement and Disability Fund by providing a uniform system of controls and records for all retirement and tax deductions, pay rolls, and for the computation of interest on retirement deductions. At the present time records and reports pertaining to the Civil Service Retirement Fund, the Federal Income Tax, and the FICA tax are all maintained on a calendar year basis. The fact that the Foreign Service Retirement and Disability Fund has had to be maintained on a fiscal year basis has necessitated a separate system of record keeping involving six-months' reports from Foreign Service posts on contributions to the Fund, and a separate system for the compilation of retirement deductions. An amendment to the Civil

Service Retirement system, similar to this, was made by Public Law 216, approved March 9, 1945 (79 Stat. 577). This change in the Foreign Service Retirement and Disability system will help reduce the cost of the administration of the system as the number of participants increases with expansion of the Foreign Service.

TITLE X  
MISCELLANEOUS

PART C - GIFTS

Existing Legislation

Sec. 1021. (a) The Secretary may accept on behalf of the United States gifts made unconditionally by will or otherwise for the benefit of the Service or for the carrying out of any of its functions. Conditional gifts may be so accepted if recommended by the Director General<sup>7</sup>, and the principal of and income from any such conditional gift shall be held, invested, reinvested, and used in accordance with its conditions, but no gift shall be accepted which is conditioned upon any expenditure not to be met therefrom or from the income thereof unless such expenditure has been approved by Act of Congress.

(b) Any unconditional gift of money accepted pursuant to the authority granted in paragraph (a) of this section, the net proceeds from the liquidation (pursuant to paragraph (c) or paragraph (d) of this section) of any other

Proposed Legislation

Sec. 1021. (a) The Secretary may accept on behalf of the United States gifts made unconditionall by will or otherwise for the benefit of the Department including the Service or for the carrying out of any of its functions. Conditional gifts may be so accepted at the discretion of the Secretary, and the principal of and income from any such conditional gift shall be held, invested, reinvested, and used in accordance with its conditions, but no gift shall be accepted which is conditioned upon any expenditure not to be met therefrom or from the income thereof unless such expenditure has been approved by Act of Congress.

(b) Any unconditional gift of money accepted pursuant to the authority granted in paragraph (a) of this section, the net proceeds from the liquidation (pursuant to paragraph (c) or paragraph (d) of this section) of any other

Existing Legislation

property so accepted, and the proceeds of insurance on any such gift property not used for its restoration, shall be deposited in the Treasury of the United States and are hereby appropriated and shall be held in trust by the Secretary of the Treasury for the benefit of the Service, and he may invest and reinvest such funds in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. Such gifts and the income from such investments shall be available for expenditure in the operation of the Service and the performance of its functions, subject to the same examination and audit as is provided for appropriations made for the Service by Congress.

(c) The evidences of any unconditional gift of intangible personal

Proposed Legislation

property so accepted, and the proceeds of insurance on any such gift property not used for its restoration, shall be deposited in the Treasury of the United States and are hereby appropriated and shall be held in trust by the Secretary of the Treasury for the benefit of the Department including the Service, and he may invest and reinvest such funds in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

Such gifts and the income from such investments shall be available for expenditure in the operation of the Department including the Service and the performance of its functions, subject to the same examination and audit as is provided for appropriations made for the Department including the Service by Congress.

(c) The evidences of any unconditional gift of intangible personal

Existing Legislation

property, other than money, accepted pursuant to the authority granted in paragraph (a) of this section, shall be deposited with the Secretary of the Treasury and he, in his discretion, may hold them, or liquidate them except that they shall be liquidated upon the request of the Secretary whenever necessary to meet payments required in the operation of the Service or the performance of its functions. The proceeds and income from any such property held by the Secretary of the Treasury shall be available for expenditure as is provided in paragraph (b) of this section.

(d) The Secretary shall hold any real property or any tangible personal property accepted unconditionally pursuant to the authority granted in paragraph (a) of this section and he shall permit such property to be used for the operation of the Service and the performance of its functions or he may

Proposed Legislation

property, other than money, accepted pursuant to the authority granted in paragraph (a) of this section, shall be deposited with the Secretary of the Treasury and he, in his discretion, may hold them, or liquidate them except that they shall be liquidated upon the request of the Secretary whenever necessary to meet payments required in the operation of the Department including the Service or the performance of its functions. The proceeds and income from any such property held by the Secretary of the Treasury shall be available for expenditure as is provided in paragraph (b) of this section.

(d) The Secretary shall hold any real property or any tangible personal property accepted unconditionally pursuant to the authority granted in paragraph (a) of this section and he shall permit such property to be used for the operation of the Department including the Service and the performance of its

Existing Legislation

lease or hire such property, and may insure such property, and deposit the income thereof with the Secretary of the Treasury to be available for expenditure as provided in paragraph (b) of this section. The income from any such real property or tangible personal property shall be available for expenditure in the discretion of the Secretary for the maintenance, preservation, or repair and insurance of such property and any proceeds from insurance may be used to restore the property insured. Any such property when not required for the operation of the Service or the performance of its functions may be liquidated by the Secretary, and the proceeds thereof deposited with the Secretary of the Treasury, whenever in his judgment the purposes of the gifts will be served thereby.

Proposed Legislation

functions or he may lease or hire such property, and may insure such property, and deposit the income thereof with the Secretary of the Treasury to be available for expenditure as provided in paragraph (b) of this section. The income from any such real property or tangible personal property shall be available for expenditure in the discretion of the Secretary for the maintenance, preservation, or repair and insurance of such property and any proceeds from insurance may be used to restore the property insured. Any such property when not required for the operation of the Department including the Service or the performance of its functions may be liquidated by the Secretary, and the proceeds thereof deposited with the Secretary of the Treasury, whenever in his judgment the purposes of the gifts will be served thereby.

The proposed amendment to section 1021 would broaden the authority of the Department to accept and use gifts on a Department-wide basis rather than solely for the Foreign Service. In using gifts for training purposes the Foreign Service Institute is now restricted to training Foreign Service personnel whereas the inclusion of Departmental personnel in the same training programs might be fully justifiable. Many of the positions in the Department are classified as dual service positions and they may be occupied alternatively by either Foreign Service or Departmental personnel. While training programs made possible by gifts will usually be designed for Foreign Service personnel it will be in the public interest to include in such programs certain Departmental officers and employees.

NEW MISCELLANEOUS PROVISIONS

SEC. 39. Section 11 of Public Law 885, 84th Congress (70 Stat. 890) is hereby amended by inserting after the phrase "Government-owned vehicles" the phrase "or taxicabs" and by inserting after the phrase "public transportation facilities" the phrase "other than taxicabs".

Under the existing provisions of section 11 of Public Law 885 the Secretary of State may authorize any chief of a diplomatic mission to approve the use of Government-owned vehicles in any foreign country for transportation of United States Government employees from their residence to the office and return when public transportation facilities are unsafe or are not available. Under this authority the Department provides, when circumstances warrant, transportation for United States employees, including Marine guards who are stationed at Foreign Service posts for official guard duty, from their place of residence to the place of their employment. Frequently this type of transportation is required only for those United States Government employees and Marine guards who are assigned to night duty, since public transportation facilities are considered safe and are available during normal business day-time hours. When public transportation facilities such as street railway systems, subway systems and buses are inoperative or are on drastically reduced schedules during the night time hours, adequate and satisfactory taxicab service is often available. However, taxicab service is considered part of "public transportation facilities" and personnel using taxicabs may not be reimbursed for taxicab fares. As a result, at many posts Government-owned vehicles must be operated by Government employed chauffeurs during the night hours, exclusively for the use of a small number of United States Government employees, including Marine guards. In many instances the cost of maintaining this chauffeur-operated vehicle service is not justified by the number of people transported. The cost of such transportation could be considerably reduced if taxicabs could be utilized. It is for this reason that the change in section 11 of Public Law 885 has been proposed.

SEC. 40. Paragraph (4) of section 104(a) of the Internal Revenue Code of 1954 (26 U.S.C. 104(a)(4)) (relating to the exclusion from gross income of compensation for injuries and sickness) is hereby amended to read as follows:

"(4) amounts received as a pension, annuity, or similar allowance for personal injuries or sickness resulting from active service in the armed forces of any country or in the Coast and Geodetic Survey or the Public Health Service, or as a disability annuity payable under the provisions of section 831 of the Foreign Service Act of 1946, as amended (22 U.S.C. 1081; 60 Stat. 1021)."

Section 41 amends paragraph (4) of section 104 (a) of the Internal Revenue Code of 1954 to exempt disability annuities from federal income tax. This is in keeping with provisions relating to disability annuities payable by the Federal Employees' Compensation Bureau. This proposed amendment to the Internal Revenue Code has been approved by the Bureau of Internal Revenue, Treasury Department.

TEMPORARY PROVISIONS

SEC. 41. Foreign Service staff officers and employees receiving basic compensation immediately prior to the effective date of this Act at one of the scheduled rates provided by section 415 of such Act, as amended, shall be transferred to the new classes established by section 415 of such Act, as amended, and shall receive basic compensation on and after the effective date of this Act, as follows:

Present class and step rate of section 415 of the Foreign Service Act of 1946, as amended (1958).			Corresponding new class and step rate of section 415 of the Foreign Service Act of 1946, as amended by this Act.			
Class	Step	Rate	Class	Step	Rate	Amount of Adjustments
FSS-1	5	\$13,160	FSS-1	6	\$13,310	\$150
	4	12,830		5	12,980	150
	3	12,480		4	12,650	170
	2	12,120		3	12,320	200
	1	11,770		2	11,990	220
FSS-2	5	12,120	FSS-1	3	12,320	200
	4	11,770		2	11,990	220
	3	11,485	FSS-2	7	11,550	65
	2	11,205		6	11,275	70
	1	10,920		5	11,000	80
FSS-3	5	11,165	FSS-2	6	11,275	110
	4	10,885		5	11,000	115
	3	10,600		4	10,725	125
	2	10,320		3	10,450	130
	1	10,030		2	10,175	145
FSS-4	5	10,230	FSS-2	3	10,450	220
	4	9,945		2	10,175	230
	3	9,665	FSS-3	7	9,790	125
	2	9,380		6	9,515	135
	1	9,095		5	9,240	145
FSS-5	6	9,600	FSS-3	7	9,790	190
	5	9,315		6	9,515	200
	4	9,030		5	9,240	210
	3	8,815		4	8,965	150
	2	8,610		3	8,690	80
	1	8,395		2	8,415	20

<u>Class</u>	<u>Step</u>	<u>Rate</u>	<u>Class</u>	<u>Step</u>	<u>Rate</u>	<u>Amount of Adjustments</u>
FSS-6	6	\$8,755	FSS-3	4	\$8,965	\$210
	5	8,540		3	8,690	150
	4	8,325	FSS-4	<u>7</u>	8,350	25
	3	8,120		6	8,125	5
	2	7,905		6	8,125	220
1	7,690	5	7,900	210		
FSS-7	6	8,050	FSS-4	6	8,125	75
	5	7,840		5	7,900	60
	4	7,630		4	7,675	45
	3	7,415		3	7,450	35
	2	7,200		2	7,225	25
	1	6,990		1	7,000	10
FSS-8	6	7,350	FSS-5	7	7,350	--
	5	7,140		6	7,150	10
	4	6,925		5	6,950	25
	3	6,710		4	6,750	40
	2	6,495		3	6,550	55
	1	6,285		2	6,350	65
FSS-9	6	6,650	FSS-5	<u>4</u>	6,750	100
	5	6,435		<u>7</u>	6,500	65
	4	6,220	FSS-6	6	6,300	80
	3	6,005		5	6,100	95
	2	5,795		4	5,900	105
	1	5,585		3	5,700	115
FSS-10	7	6,175	FSS-6	6	6,300	125
	6	5,970		5	6,100	130
	5	5,755		<u>4</u>	5,900	145
	4	5,540		FSS-7	<u>7</u>	5,550
	3	5,400	6		5,400	--
	2	5,260	6		5,400	140
	1	5,115	5	5,250	135	
FSS-11	7	5,500	FSS-7	7	5,550	50
	6	5,355		6	5,400	45
	5	5,215		5	5,250	35
	4	5,070		4	5,100	30
	3	4,930		3	4,950	20
	2	4,790		2	4,800	10
	1	4,650		1	4,650	--
FSS-12	7	5,025	FSS-8	7	5,100	75
	6	4,890		6	4,950	60
	5	4,745		5	4,800	55
	4	4,605		4	4,650	45
	3	4,460		3	4,500	40
	2	4,320		2	4,350	30
	1	4,180		1	4,200	20

<u>Class</u>	<u>Step</u>	<u>Rate</u>	<u>Class</u>	<u>Step</u>	<u>Rate</u>	<u>Amount of Adjustments</u>
FSS-13	7	\$4,580	FSS-9	7	\$4,650	\$ 70
	6	4,440		6	4,500	60
	5	4,295		5	4,350	55
	4	4,155		4	4,200	45
	3	4,010		3	4,050	40
	2	3,870		2	3,900	30
	1	3,730		1	3,750	20
FSS-14	7	4,155	FSS-9	<u>4</u>	4,200	45
	6	4,010	FSS-10	<u>7</u>	4,100	90
	5	3,870		5	3,900	30
	4	3,730		4	3,800	70
	3	3,585		2	3,600	15
	2	3,445		1	3,500	55
	1	3,300		1	3,500	200
FSS-15	All step rates & below		FSS-10	1	3,500	5

The temporary provisions proposed above provide for an orderly and equitable conversion of all personnel paid in accordance with the present rates of the Foreign Service staff salary schedule to the new classes and rates of the proposed Foreign Service staff schedule. The salary adjustments involved are held to the minimum possible while maintaining present salary relationships of personnel. While the conversion plan necessitates new class designations in most all cases, the large majority of personnel will receive a higher class number by virtue of the reduction in the total number of classes in the schedule.

SEC. 42. The annuity of each former participant under the Foreign Service Retirement and Disability system, who retired prior to July 28, 1956 and who at the time of his retirement had creditable service in excess of thirty years, shall be recomputed on the basis of actual years of creditable service not in excess of thirty-five years. Service which was not creditable under the Foreign Service Retirement and Disability system on the date a former participant retires, shall not be included as creditable service for the purpose of this recomputation. The annuities payable to such persons shall, when recomputed, be paid at the rates so determined, but no such recomputation or any other action taken pursuant to this section shall operate to reduce the rate of the annuity any such person is entitled to receive under the Foreign Service Retirement and Disability system.

Public Law 828, 84th Congress, amended section 821 (a) by increasing from thirty to thirty-five the number of years of creditable service that may be used in the computation of annuities. It is believed that through oversight this provision was not at that time made applicable to former participants in the system who had retired with more than thirty years of creditable service but whose annuities had been computed on the basis of only thirty years' service. This proposed temporary section will make it possible to recompute the annuities of all former participants in the system who did not receive the full benefit of their creditable service at the time of their retirement. The provision is applicable only to former participants and does not apply to surviving annuitants.

SEC. 43. (a) The provisions of this Act shall become effective as of the first day of the first pay period which begins one month after the passage of this Act, except as otherwise provided in paragraphs (b), (c), and (d) of this section.

(b) The provisions of paragraphs (c) (1) and (c) (2) of section 803 of the Foreign Service Act of 1946, as amended, by section 24 (b) of this Act, shall become effective on the first day of the first month which begins one year after the effective date of this Act, except that any Foreign Service staff officer or employee, who at the time this Act becomes effective meets the requirements for participation in the Foreign Service Retirement and Disability system, may elect to become a participant in the system before the mandatory provisions become effective. Such Foreign Service staff officers and employees shall become participants effective on the first day of the second month following the date of their application for earlier participation.

(c) The amendment made by section 41 of this Act shall be effective with respect to taxable years ending after the date of enactment of this Act.

(d) The provisions of section 43 of this Act shall take effect on the first day of the first month which begins more than thirty days after the date of enactment of this Act.

The purpose of this section is self-evident.

SEC. 44. Notwithstanding the provisions of this Act, existing rules, regulations of or applicable to the Foreign Service of the United States shall remain in effect until revoked or rescinded or until modified or superseded by regulations made in accordance with the provisions of this Act, unless clearly inconsistent with the provisions of this Act.

Section 45 is a necessary provision as it may not be possible to revise completely all regulations and Executive Orders now affecting the Service before the effective date of the Act. Without a provision such as that contained in this section, there might be a question regarding the continuing effect of some of these regulations.